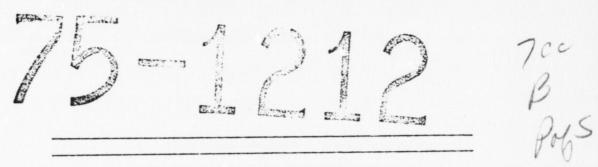
United States Court of Appeals for the Second Circuit



APPENDIX

DEIGINAL WITH ACK. OF RECEIPT



UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NO. 75-1212

UNITED STATES OF AMERICA,

Appellee,

-against-

CHARLES LUCCHETTI,

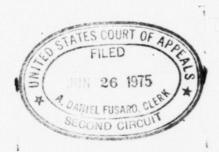
Defendant.

ALBERT SANTORO, LAURA SANTORO and ROSE M. SANTORO,

Sureties-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

JOINT APPENDIX



DAVID G. TRAGER United States Attorney. Eastern District of New York Attorney for Appellee 225 Cadman Plaza East Brooklyn, New York 11201

H. ELLIOT WALES
Attorney for Sureties-Appellants
747 Third Avenue
New York, New York 10017

PAGINATION AS IN ORIGINAL COPY

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y/a

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MISHLER, J.

7108849

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A. A.	STRACT OF COSTS	AMOUNT	DATE		NAME	RECEIVED	DISBUI	DISBURSED		
Fine,			4-11-75	PARTIAL BAIL BECURITY DEPU	FURFEITURE - (CASH	7,500 -	1	1		
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Attorney,					of appeal	- · ·	5	-		
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1-9-75	Before Mishler	Ch I - I	ndictme	nt filed.						
9-75					out counsel - c	left to				
d L		AND DESCRIPTION OF THE PARTY OF			ate - bail set		000.00)		
1129.11										
Wen	Surety Co. Bond on motion by the Govt. March 31, 1975 for trial - This case relates to 71 CR 849 before Judge Mishler.									
1-15-75				, belole	0 - 0 - 1 - 1					
1-15-79	Notice of App Before Mishle	r. Ch I -	Motion	argued fo	r reduction of	bail -ba	il hea	arin		
To the second						1	. ,	1,01		
William To					75 at 4:30 PM.	Ziliot Wa	100	1 / 1		
1-22-1	5 Before MISHLI									
11.	hearing held	arraigne	one ret	2-28-75	lea of not gui -trial date	to follow				
7 192 19 19 19 19 19 19 19 19 19 19 19 19 19	_									
S. 100 1 100	hearing concl	uded - ded	cision r	eservea,				4.17		

75 CR 25

#	
DATE	PROCEEDINGS
42 1.	By MISHLER, CH J - Memorandum of Decision and Order filed on motion
1-30-75	by deft Lucchetti for release on bail pending trial-court imposes
, ,,	and tions in addition to the monetary conditions etc. 1. the
1	bail limits shall be the Town of Islip and to and from the office of
	H.Elliot Wales, 742-3rd Avenue, NYC. 2. He shall reside at 66 West Pine
	St.Islip, N.Y.; He shall not associate with or communicate by letter
0	to co-defts except his atty shall have the right to communicate with
	co-defts for the purpose of preparing for trial. Deft shall be
6, 7	released on bail covering this indictment and 71 CR 849 upon the
37	execution of a personal bond by the deft in the amount of \$200,000
175	and the execution of a surety agreement by the following persons and
	pledging the equities in the following properties: (see Order)
- V q	The defendant shall also deposit the sum of \$7,500.
2-11-75	Notice of Readiness for Trial filed
2/13/75	Magistrate's file 75 M 172 inserted into CR file.
3/6/75	Petition for writ of habeas corpus and testificandum filed
3/5/75	By PLATT, J Writ issued, ret. 3/10/75
/11/75	Notice of motion for discovery, inspection and dismissal of indictment
1.	filed- and memorandum of alw in support of motion filed
3-12-75	Before MISHLER, CH J - case called - motion by the Govt to forfeit bail
	on the deft - hearing held - hearing concluded - court declares forfait
	ure of bail - bail will be remitted if the deft surrenders to the U.S.
t = 1 Feat	Marshal on or before Mar. 13, 1975 by 4:00 PM.
3-14-75	Writ retd and filed -Executed (Rogers, Paul)
3/21/75	Before MISHLER, CH.J Case called - Motion for discovery, bill or particu
57	milaix adjd without date
3/21/75	By MISHLER, CH.J Order of forfeiture of bail bond, etc. filed
3/21/75	By MISHLER, CH.J Order to show cause why an order entering judgment
	against individuals, in the sum of \$200,000.00 should not be ordered
	etc. filed ret. 3/31/75
3-31-75	
	and Laura Santora present - Judgment order to be submitted by to
100 m	sureties -Rose and Albert Santoro - sureties Barbara Lucchetti &
	Patricia Vidal not present - Marshal is directed to leave process at
373	their homes if nobody is there to receive it. Order to Show Cause as
1	to sureties Luccetti & Vidal is ret. on 4-2-75 at 10:00 am.
3/31/75	By MISHLER, CH. J Order to Show cause filed why judgment should not be
6 27	entereed against sureties on bail bond of deft filed ret; 4/2/75

DATE	PROCEEDINGS
4-2-75	ByMishler, Ch J - Order to Show Cause filed (dated Mar. 31, 1975)
137.	ret. 4-2-75 , as to why an entry of judgment in favor of
	Lucchetti & Vidal , sureties for the sum of \$200,00, should not
	entered etc. Copies mailed as indicated.
4-2-75	Before MISHLER, CH J - case called - defts Barbara Luchhetti & Pat-
1 1	ricia Vidal present, a s sureties - Govt present - Judgment
Paris,	entered in favor the Govt against property of sureties - Govt
P. 1.	to submit order.
4-8-75	By MISHLER, CH J - Judgment and Order of Sale filed(see Order
-7 / 1-1-1-1-1	for details) and further Ordered that the net proceeds of the
it is k	sale after deducting costs of publication and statutory fees
Will a	shall beapplied to the payment of the judgment entered herein.
4/9/75	to the filled was wormed to he relieve
44/3/13	as counsel
/14/75	Notice of motion to set aside forfeiture of bail, etc. filed
/14/75	Letter to Barry Kamins, esq. from Judge Mishler filed re:assignment
63142	as counsel
4/14/75	• • • • • • • • • • • • • • • • • • • •
4/16/75	
4/17/7	5 Ordarka Marshals service on order to show cause retd and filed-exec
	5 By MISHLER, CH J - Memorandum of Decision and Order filed denying
4-17-7	motion of deft for disqualification of Ch.Judge from presiding
(7)	over defts forthcoming trials.
4-18-7	5 Before MISHLER, CH J - case called - motion to set aside the
e 17.	forfeiture as to daix Santoras- Decision Reserved.
4-25-75	511 1 11 11 11 11 11 11 11 11 11 11 11 1
4. 1%	filed from Elliot Wales, Esq. (received from Chambers & retd
ta., 25.	filed from Elliot Wales, Esq. (received from Chambers & retd as per instructions)
	as per instructions)
4/28/7	as per instructions) Pro-Se Notice of appeal from order of 4/17/75 denying disqualification of
4/28/7	as per instructions) Pro-Se Notice of appeal from order of 4/17/75 denying disqualification of trial judge filed
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5-7-75 Voucher for expert services filed //3/75 By MISHLER, CH. J Memorandum of Decision/and Order filed denying deft's motions to dismiss, for discovery, assistance under C.J.A. and disqualification (entemd in 71 CR 849) //3/75 By MISHLER, CH. J Memorandum of Decision and Order filed denying motion to suppress(entered in 71CR849) //3/75 Refore MISHLER, CH. J Memorandum of Decision and Order filed that motion of sureties to set aside ball forfeiture is denied -27-75 Voucher for Expert Services filed San //29/75 Notice of appeal filed of the sureting motion to set daids ball forfeiture //29/75 Docket entries and duplicate of notice of appeal mailed to court of appeal //29/75 Stenographers Transcript dated 5/23/75 filed //3/75 Certified copy of Judgment received from court of appeals and filled that deft's motion to expediate argument of the appeal is granted //3/75 Stenographers Transcript dated 4/2/75 filed //3/75 Stenographers Transcript dated 3/12/75 filed (filed in 71CR849) //3/75 Stenographers Transcript dated 3/12/75 filed (filed in 71CR849)	1	
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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

75 CR 25

UNITED STATES OF AMERICA

-against-

CHARLES LUCCHETTI,

Defendant,

-and-

Memorandum of Decision and Order

ALBERT SANTORO, LAURA SANTORO and ROSE M. SANTORO,

Sureties.

May 22, 1975

MISHLER, CH. J.

The motion of the sureties, Albert Santoro,
Laura Santoro and Rose M. Santoro, to set aside the bail
forfeiture in the above matter is in all respects denied
and it is

SO ORDERED.

II. S. D. J.

UNITED STATES OF AMERICA

-against-

: Docket # 75-1212

CHARLES LUCCHETTI,

Defendant,

NOTICE OF MOTION TO EXPEDITE APPEAL

-and-

ALBERT SANTORO, LAURA SANTORO and ROSE M. SANTORO,

Sureties-Appellants.

SIR:

PLEASE TAKE NOTICE that upon the annexed affidavit of H. ELLIOT WALES, the order of the District Court denying the application of the sureties to set aside the bail forfeiture and/or remission, the Notice of Appeal from that order, the judgment and order of sale with respect to four one family homes, the undersigned will apply to this Court at a motion part, on Tuesday, June 10th, 1975, at 10:30 o' clock in the forenoon, for an order expediting the appeal in this matter on the ground that extreme hardship will otherwise be caused to the sureties.

Clerk

10007.

The hearing

of the within motion has been

set for Tuesday, June 10th, 1975,

at 10:30 A. M. in Room 1705,

United States Courthouse,

Foley Square, New York, N.Y.

> Dated: New York, N.Y. June 5, 1975

Yours, etc.,

TO:CLERK OF THE COURT

TO: UNITED STATES ATTORNEY Eastern District of New York United States Courthouse 225 Cadman Plaza East Brooklyn, New York 11201

H. ELLIOT WALES Counsel for Sureties-Appellants 747 Third Avenue New York, N.Y. 10017 (212) 421-1993

UNITED STATES COURT OF APPEALS

Second Circuit



At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the ninth day of June, one thousand nine hundred and seventy-five.

United States of America,

Plaintiff

v.

Charles Luchgetti,

Defendant,

Albert Santoro, Laura Santoro, and Rose M. Santoro,

Sureties-Hopellants.

It is hereby ordered that the motion made herein by counsel for the

appellants

XXXXXXXXXX

XXXXXXX

XXXXXXXXXXXXXXX

by notice of motion dated June 5, 1975 to expedite the argument of the appeal

be and it hereby is granted

XXXXXXX

It is further ordered that appellants' brief and appendix be filed by 6-13-75; appellee's brief by 6-20-75; with argument during week of June 23, 1975 or as soon thereafter as counse may be heard; 7 copies of all papers in typwritten form to be filed.

Dames L. Oakes

UNITED STATES OF AMERICA

- against -

CHARLES LUCCHETTI,

Defendant,

- and -

ALBERT SANTORO, LAURA SANTORO and ROSE M. SANTORO,

Sureties.

SIR: .

75 CR 25

NOTICE OF MOTION TO SET ASIDE FORFEITURE OR FOR REMISSION-RULE 46 (e) (2) and (4), FRCrP

PLEASE TAKE NOTICE that upon the annexed affidavits of H. ELLIOT WALES, and LAURA SANTORO, the order of forfeiture of the bail bond, dated March 21, 1975 and the judgment and order of sale dated April 8, 1975, and upon the surrender and return to custody of the defendant Charles Lucchetti on April 2, 1975, the undersigned will apply to this Court, before Chief Judge Jacob Mishler, at a date, time and place to be set by the Court, for an order, pursuant to Rule 46 (e) (2) and (4) of the Federal Rules of Criminal Procedure, setting aside the forfeiture of the bail in this matter, upon such conditions as the Court may impose, if it appears that justice does not require the enforcement of the forfeiture, or alternatively, for remission in whole or in part, upon such conditions as the Court may impose, if it appears that justice does not require the enforcement of the forfeiture, as pertains to the sureties Albert Santoro, Laura Santoro and Rose M. Santoro.

PLEASE TAKE FURTHER NOTICE that the sureties Albert Santoro,

Laura Santoro and Rose M. Santoro desire the opportunity to appear in court

to testify with regard to this application, and request that the defendant

Charles Lucchetti be present in court at that time to testify with respect to this application.

Dated: New York, N.Y. April 10, 1975

Yours, etc.,

H. ELLIOT WALES
Counsel for sureties Albert Santoro,
Laura Santoroand Rose M.
Santoro

TO: CLERK OF THE COURT

UNITED STATES ATTORNEY (JOAN O'BRIEN, ESQ.)

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK	
	-×
UNITED STATES OF AMERICA	: 75 CR 25
– against –	COUNSEL'S AFFIDAVIT IN
CHARLES LUCCHETTI,	SUPPORT OF MOTION
Defendant,	
- and -	
ALBERT SANTORO, LAURA SANTOR and ROSE M. SANTORO,	
Sureties.	

STATE OF NEW YORK)

COUNTY OF NEW YORK)

H. ELLIOT WALES, being duly sworn, deposes and says.

I am counsel for the sureties Albert Santoro, Laura Santoro and Rose M. Santoro, with respect to their particular motion to set aside the forfeiture and/or remit, in whole or in part, with respect to the bail bond in question.

It should be specifically noted that I am <u>not</u> appearing in this proceeding on behalf of the sureties Barbara Lucchetti or Patricia Vidal,

As the Court is too well familiar with this matter, it serves no useful purpose to recite the history.

As this application is addressed to the discretion of the Court, it serves no purpose to recite statement of facts solely for the purpose of creating a

record. I am well aware that the case law has made this application a matter of discretion, which exercise would not be disturbed upon appellate review.

However, I do submit that there are certain appealing factors which warrant this Court to remit with respect to these three particular sureties.

The defendant Charles Lucchetti surrendered voluntarily to the jurisdiction of this court on April 2nd. As such he was a fugitive from March 12th to April 2nd - a period of three weeks.

While his disappearance during this period of time did cause the post-ponement of the trial in the companion matter - indictment #71 CR 849 -it did not cause a postponement with respect to the trial of this particular indictment-75 CR 25.

The affidavit of the surety Laura Santoro evidences that she spoke by telephone with the defendant Charles Lucchetti, and persuaded him to surrender. Obviously that is the proper function of a surety - to cause the return of the defendant.

In this matter we are not dealing with professional sureties, who assume such commercial risks for a fee or commission, and who amply protect themselves by having the family post sufficient collateral with them. In this regard we are dealing with purely private persons, who out of love, affection and confidence (obviously misplaced), placed their homes and their cash resources on the line in order to meet what they honestly believed was a family responsibility. Albert and Laura Santoro, uncle and aunt of Charles Lucchetti, posted their own home and their total cash resources with this court. Likewise Rose M. Santoro, an aunt of Charles Lucchetti, posted her

home with this court.

We do not question that the bond was properly forfeited, and that both the government and the court were put to expense and inconvenience. We do submit that the harsh reality of a personal judgment in the sum of \$200,000, the loss of private homes, and the loss of the total cash resources of one family, in toto, is a remedy and a result which far surpasses the expense and disruption to the Court and to the government. Obviously the fact of forfeiture had a powerful effect upon Charles Lucchetti. It compelled him to surrender when he was confronted with the fact that he had caused tragedy not only to himself but to his entire family. As such, the posted collateral of the family did eventually assure his presence — even though he was late. It is obvious Lucchetti would not have surrendered if he believed that his families' total resources were to be lost in any event. Also it is obvious Laura Santoro would not have cried and egged Lucchetti to surrender if she knew that in fact her home and her savings were to be lost in any event.

Rose Santoro has been widowed for years, and four out of her eight children still live with her at home. This home is her only asset.

I do believe that there is ample room for the exercise of discretion so that the Santoro family is not wiped out; the government is reimbursed for its expense in locating the defendant; and the integrity of the Court is protected in knowing that its orders and directions will be respected. It is obvious that Charles Lucchetti is an extremely difficult young man, who has caused tragic consequences to his own young life as well as that to his own family. Perhaps the family sees him in a completely different light as does this Court. This is not unusual or surprising, for many malefactors show profound love,

affection and consideration within the confines of their family. As such the Santoros were genuinely misled and misplaced in their confidence with respect to him.

H. ELLIOT WALES

Sworn to before me this

10th day of April, 1975

CHINAN KURTZER

COMMISSIONER OF DEEDS DITY OF NEW YORK NO. 4-652 Cartificate Filed in New York County Commission Expires December 1, 1976

UNITED STATES DISTRICT OF NEW	YORK	
	×	
UNITED STATES OF AMERIC	CA :	75 CR 25
– against –		
CHARLES LUCCHETTI,		
Defendant,	:	
- and -		
ALBERT SANTORO, LAURA and ROSE M. SANTORO,	SANTORO	
Sureties:		
	×	:
STATE OF NEW YORK)	

COUNTY OF NEW YORK

LAURA SANTORO, being duly sworn, deposes and says:

I am one of the sureties, and submit this affidavit in support of the application of myself, my husband Albert Santoro, and my sister—in-law Rose M. Santoro, for appropriate relief.

My husband and I posted our family home, together with \$7500.00 in cash, in this matter. We in fact did not have the \$7500.00 at the time, and it was necessary that we borrow some of the money. Our home required an initial cash investment of \$20,000.00. The equity in the house has now increased, through both improvements and inflation, to approximately \$40,000.

My sister-in-law, Rose Santoro, is widowed. Four of her eight children still live with her at their home.

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On April 1st Charles Lucchetti did telephone me at my home. He refused to tell me where in fact he was. I begged him and pleaded with him to surrender himself. I reminded him of the financial chaos he was causing the entire family by his departure, and that we all in the family stood to lose our homes and our cash. I begged him to contact Elliot Wales, and to surrender himself. He listened to me, and agreed that I was right. He promised to comply with my urgings, and to surrender himself the next day.

Obviously over the years we have no personal knowledge of any of Charles Lucchetti's misdeeds. We know him only as a loving nephew, who called upon us at a difficult time. As his aunt and uncle we felt we owed that obligation to him and to the family. Inspite of the hardship and agony which he has caused us in recent weeks, we still do grieve that he has brought such destruction to his own young life.

My husband, my sister-in-law and I do request of Your Honor that you recognize that we are three hard working people, all of whom are raising a family. None of us have every had any difficulties with the law. In every respect we have lived a useful and decent life. We did respond to the urgent plea of our nephew Charles Lucchetti and his wife when we helped them out at the time of their own personal difficulty. Rightly or wrongly we saw our family obligation and commitment in this direction. Now that Charles Lucchetti is returned to federal custody, we do ask that we be relieved of the tragic consequences which a completion of the forfeiture proceedings would have. It would absolutely deprive us of everything we have worked for and saved for. The judgment in the sum of \$200,000 would absolutely represent an obstacle in our life which we could never overcome. In effect we

would be working for the government forever.

We do not question Your Honor taking appropriate steps against Charles Lucchetti with regard to his violation of the terms of your bond. We do ask that you not view us in the same light, and that you recognize the harsh predicament in which we now find ourselves.

LAURA SANTORO

Sworn to before me this

10th day of April, 1975

COMMISSIONER OF DEEDS

COMMISSIONER OF DEEDS

CITY OF NEW YORK NO. 4.652

CITY OF Field in New York County

Certificate Field in New York County

Commission Expires December 1, 1916

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK	
UNITED STATES OF AMERICA,	INDICTMENT #71CR 849 INDICTMENT #75 CR 25
-against-	:
CHARLES LUCCHETTI,	
Defendant.	:
	×
STATE OF NEW YORK) SS.:	

MATTHEW SANTORO and PATRICIA SANTORO, being duly sworn, depose and say:

We are husband and wife, and reside together at 323 Amityville Street,
Islip Terrace, N. Y., 11752 (telephone #516-277-0517).

Matthew is the son of Rose Santoro, one of the sureties who posted her own private home.

Matthew is age twenty-five, having been born April 21, 1950. Patricia is also age twenty-five, having been born February 9, 1950.

We have been married for three and a half years, having been married on December II, 1971. We have a two year old son named Angelo. Matthew works as a cable T.V. installer, employed by Teleprompter, in Islip.

At the moment Patricia is not employed. However, until recently she was employed at Coherent Communications Co., Happauge, as a precision assembler. She was so employed on March 12th, and she began working that

Matthew served in the United States Army for a period of twenty-one months from 1971-1972.

Both of us are extremely close to Matthew's mother and Patricia's parents. We live with Patricia's parents. Matthew visits his mother every day for at least a few minutes.

Initially, the four houses that were to be posted as collateral did <u>not</u> include Rose's home. However, one person did withdraw her offer to post a home, and in place of that, Matthew asked his mother to post her home so that arrangements which had been made could be completed.

Laura Santoro had advised Matthew that inasmuch as one person had withdrawn her offer of the house, it was necessary for Matthew to ask his mother if she would post her house. In asking Rose to post her home, I, Matthew, took into consideration the fact that Charles Lucchetti had had sufficient family contact with my mother to know how hard she had worked all these years to maintain the home and to raise her family there. Over the years Charles had been at my mother's home on many occasions. He knew how she had struggled all these years since the death of her husband.

On the evening of March 11th, Charles Lucchetti telephoned Matthew, and told him he was "hot". However, Charles told Matthew not to worry because Charles could take care of the situation. With that assurance Matthew did not worry.

On the next morning, March 12th, agents and detectives came to our

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home at about 7:00 A. M. and asked Matthew to accompany them together to the precinct for questioning. At that time Patricia was already at work.

I drove by Patricia's place of work, and told her that the agents wanted to question me. I told her there was nothing to worry about.

During the course of the subsequent interview I did tell agent Sweeny that Charles had telephoned me the night before.

After 7:15 A.M. that day, Patricia went promptly to the home of Rose Santoro, and stayed with her all that day. That morning Patricia telephoned Joan O'Brien, and asked her if it was possible for the Rose Santoro home to be released from the bond. Joan O'Brien said it was too late.

We should add that during the period from January 31st to early March, Charles came to our home on the average of twice a week.

On the evening of March 12th, at approximately 8:00 P. M., Charles spoke by telephone with Matthew at the home of Rose Santoro. Charles said that he would surrender promptly.

On the next morning, at approximately 9:00 A. M., Charles spoke by telephone with Matthew at the home of Patricia's brother, Tom Lovegrove, in Central Islip, and said he was going to surrender promptly. Both of those phone calls were initiated by Charles. In each of these telephone conversations Matthew told Charles that he was jeopardizing the house of the family if he did not surrender immediately.

On March 31st, in the evening, Charles telephoned Laura Santoro at her home. We were both there together with Albert Santoro and Thomas

Santoro (Al's brother). Only Laura spoke with Charles. We overheard the conversation, and we heard Laura pleading with Charles to surrender himself to save the homes of the family. We heard Laura tell Charles to contact Elliot Wales so that he could make appropriate arrangements.

Patricia had appeared in Federal Court earlier that day with Rose Santoro.

On April 2nd at approximately 11:00 A. M., Charles Lucchetti telephoned Patricia at her home. Charles said that he was extremely distressed by the whole situation, and that he thought it best that he surrendered himself. Patricial told Charles that it would be best for all concerned if Charles were to surrender. She told him that the entire family was on the verge of losing their homes. Patricia told Charles that he should contact Elliot Wales so that he could help him in this situation. Patricia also told Charles that he was causing extreme emotional stress to Rose Santoro by the fact that she stood to lose her family home. When Charles said that he did not have a car and that he just did not know how to get to the Federal Courthouse, Patricia stated that she would drive Charles to the courthouse. Charles agreed to accept her offer.

Charles then gave Patricia a complicated set of instructions on how to meet him. It involved meeeting him at a certain spot near the intersection of Long Island Expressway and Meadowbrook Parkway. Charles and Patricia agreed that she would come immediately to pick him up.

Patricia passed Matthew's office, and asked him if it were safe and advisable for her to do this. Matthew said that if it would involve saving the

home of his mother, it would be advisable that it be done.

Patricia did drive to the spot where Charles had told her to be, and she waited about ten minutes. Finally Charles did walk up to the car and entered it. Patricia drove directly to the Federal Courthouse in Brooklyn, and left Charles at the front door of the courthouse. She waited a few minutes to make sure that he did not return. Then she telephoned the United States Marshal to check to determine if Charles in fact did surrender himself. The Marshal said yes. Then Patricia drove home and told her husband what had happened.

During the period from March 12th to April 2nd, we both did the following in order to locate Charles. Each day Patricia drove to the Islip train station of the Long Island Railroad, and waited for several hours in the hope that Charles may appear to pick up Barbara's car.

Each day Matthew drove by Charles' home with the hope that perhaps he might spot him.

On a regular basis Matthew drove by the apartment of Rickie Schweitzer, Charles' nephew, who resided at Cardinal Lane, Islip. In addition, Matthew did pass by the delicatessen owned by the same Rickie Schweitzer, at Montauk Highway in Lindenhurst.

Patricia did visit the detectives' office at the Fourth Precinct, and offered to do anything that they would ask her to do.

Together we thought of every possible lead that we could follow in an effort to locate Charles.

At all times we acted for the sole purpose of assisting Rose Santoro

to keep her home. My mother is extremely close to me, evidenced by the fact that over the years I had visited her every day.

I am heartbroken at the fact that she posted her home, at my request.

At all times my wife and I did everything possible in order to locate Charles.

When Patricia told me on April 2nd that Charles had telephoned her, I gave her my approval to her arrangements, for I knew that Patricia had good rapport with Charles, and could persuade him to surrender. I knew Patricia would spend all day long waiting for Charles if that were necessary. I knew that Patricia would drive anywhere and do anything in order to secure the surrender of Charles. I knew that Patricia would tell Charles anything and promise him anything just so long as she could persuade him to surrender As such she told him that the house could be saved and that Elliot Wales would do everything to minimize Charles' problem.

At all times both of us acted solely to protect the home of our mother.

In driving Charles to the Federal Courthouse that day Patricia took the risk that perhaps she might be stopped and arrested with Charles. She took that risk knowingly and wilfully because she was absolutely determined to surrender Charles.

Our family is very close. We live with Patricia's mother, and visit

Matthew's mother daily. We are very close to Matthew's brothers and sisters.

Frankly, we would do anything that was necessary in order to get

Charles back into federal custody.

Matthew Senton

Matthew Santoro

Sworn to before me this

22nd day of April, 1975

H. ELLIOT WALES

NO. 24-412915

No. 24-412915

Qualified in Kings County

Qualified in Kings Auch 31, 227

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

INDICTMENT #71 CR 849
INDICTMENT #75 CR 25

-against
-against
CHARLES LUCCHETTI,

Defendant.

STATE OF NEW YORK

COUNTY OF NEW YORK

ROSE SANTORO, being duly sworn, deposes and says:

I reside at 48 Richard Avenue, Islip Terrace, New York 11752 (telephone:#516-277-4698).

I am one of the sureties in this matter, having posted my home at 48 Richard Avenue, Islip Terrace. I am 53 years of age, having been born January 15, 1022. I was married on March 7, 1942 to my late husband, Angelo Santoro. Angelo passed away fifteen years ago on March 23, 1960, at the age of forty. Since that time I have never remarried.

I have eight children from my marriage. They range in age from seventeen to thirty-two. Four of them live at home with me.

I list the following with respect to my children:

- (A) Josephine Hubert-age 32, married lives in her own home.
- (B) Elizabeth Ranaudo age 30 married lives in her own home.
- (C) Rosemarie Ranaudo age 28 separated from her husband has one seven year old son she and her son live with me at my home she works as a book-keeper and contributes \$20.00 a week to the household.

- (D) Matthew Santoro age 25 married three and a half years to Patricia Santoro lives in rented premises at 323 Amityville St., Islip Terrace has a two year old son works as a cable television installer served in the United States Army 1971-1972 is extremely close to me, and visits me every day.
- (E) Thomas Santoro age 23 single lives at home with me graduated in June 1974 from the State University of New York at Stonybrook has been accepted for admission to the Law School of Ohio State University for September 1975 just began working as a life insurance salesman Metropolitan Life Insurance Company, Oakdale, N. Y. cannot contribute to the household as he must save his money for law school tuition.
- (F) Albert Santoro age 22 single lives at home with me works as shipping clerk, at Jaco Electronics Co. Happauge, New York salary \$110.00 per week contributes \$25.00 per week to household.
- (G) Angelo Santoro age 17 third year student at East Islip High School - does not work - does not contribute to household - is extremely interested in going to college.

My husband and I purchased our home about fifteen years ago, just prior to his death. The purchase price was \$10,500.00. We secured a mortgage from the Ridgewood Savings Bank, and there is presently due a balance in the neighborhood of \$3,000. This is a one-family home, with three bedrooms.

My husband was self employed, in the business of recapping tires.

His income was almost modest. He served in the United States Air Force during World War Two.

For the past ten years I have worked as a floor girl in a dress factory, Rac Dress Co., 560 Main Street, Islip. My gross salary is \$110.00 per week.

I receive the sum of \$119.00 per month from the Social Security

Administration for my son, Angelo Santoro, age 17. I also receive from

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the Veterans Administration the sum of \$49.00 per month for his account.

Both payments will continue only as long as Angelo is a full time student.

I am an aunt by marriage to Charles Lucchetti. I was asked by my son Matthew to post the house in this matter.

Since on or about March 12, 1975, I have not been contacted by any
FBI agent or any United States Attorney. Neither have I talked with
Charles Lucchetti, his wife Barbara Lucchetti, or Elliot Wales. I did
telephone Charles' mother on one occasion, to find out if she had any information, but she told me she knew nothing.

I have discussed this matter during this period of time on a regular basis with my son Matthew. I am extremely close to Matthew, and I posted the house at his request. Even though Matthew has his own family and home, he has always visited me every day. Matthew has told me regularly that both he and his wife Pat are making a tremendous effort to locate Charles. Matthew told me that he was contacting every person who he knew had known Lucchetti. Also he told me that his wife Pat had contacted the Suffolk County Detectives' Office, and that Pat spent at least two hours per day waiting at the Islip Station of the Long Island Railroad with the hope that Charles Lucchetti might appear to claim his car.

I can assure you that my son Matthew is heartbroken as a result of the predicament he has caused me, and he has made every effort to locate Charles

On March 12th my daughter-in-law Patricia Santoro came to my home to tell me that any number of FBI agents had picked up her husband Matthew for questioning. She told me that she was sure it could only be with regard

to some new problem caused by Charles, and that we should take immediate steps to get our house returned and get off the bond.

On my behalf Patricia Santoro called Joan O'Brien, the Assistant United States Attorney, and in my presence asked Ms. O'Brien if steps could be taken so that I could get off the bond and my house would be returned to me. Pat told me that Joan O'Brien said it was too late for anything to be done.

I can assure you that the relationship between my son Matthew and myself is so strong that I am confident that Matthew and his wife made every effort to attempt to locate Charles.

When my husband died he did not leave me any life insurance, any cash, any savings account, any stocks or any other assets. The only thing left to me was our newly purchased home. For the past fifteen years I have worked full time to maintain that home so that I can raise my children at home.

I still have four children living at home. It is still the only asset I have in my life. If I were to lose the home, I would have no place to live for myself and my children.

Rose Santoro

Sworn to before me this 21st day of April, 1975

H. ELLIOT WALES

Kings County

INDICTMENT #71CR 849
INDICTMENT #75CR 25

AFFIDAVIT OF SURETY

LAURA SANTORO

UNIT)	S	TA	TE	S	DIS	TRI	CT	C	OURT
EASTE	ER	N	DI	ST	R	ICT	OF	NE	N	YORK

UNITED STATES OF AMERICA,

-against-

CHARLES LUCCHETTI,

Defendant.

STATE OF NEW YORK

) SS .:

COUNTY OF NEW YORK

LAURA SANTORO, being duly sworn, deposes and says:

I reside at 2000 Linwood Avenue, Fort Lee, N. J., 07024. I am the wife of Albert Santoro.

Together with my husband, I did post our home at 13 Emerald Drive, Vernon, New Jersey, and \$7500.00 in cash in this matter.

I have read the affidavit of my husband, and accept all the statements: as if made by myself.

Actually, I have been closer to Charles Lucchetti than my husband.

Up to 1971, we really had very little contact with Charles. After that time, since he was sentenced in this matter, we have developed a great sympathy for him. We feel extremely bad that a young man could so destroy his own life and those who are close to him. Since that time Charles and I communicated with each other on a regular basis and I did visit him in prison on a regular basis.

When Charles received a reversal and a new trial in this matter, I did believe that perhaps this was an opportunity for him to get out from under his problems, and make a fresh start for himself. I was anxious that he be given the opportunity to prove himself that he could live a law abiding life, get a job, and raise a family. My husband and I were willing to post the collateral in an effort to give Charles this opportunity to prove himself.

We had hoped that four years of prison life had taught him that his past life was all a mistake, and that he had better change his ways.

In the early afternoon of March 12th, I received a phone call from Elliot Wales advising me that Charles was missing, and that it was necessary that I appear in court at 4:00 o' clock that afternoon in an effort to protect our home. Together with my husband we did appear in court that day. We spoke briefly to Joan O'Brien, FBI Agent Sweeny, as stated in my husband's affidavit.

Charles Lucchetti had telephoned me at my home earlier that day — some time around 10:30 A. M. We had a brief general conversation of no particular importance. Charles did not tell me where he was, nor did he advise me of any particular problem. Also I had spoken with Charles on each of the several prior days by telephone — also phone calls of no significant conversation. I did see Charles on that prior Sunday with my husband at Charles' home.

Since that time I have spoken on a regular basis with Rose Santoro and Elliot Wales. I have nnot spoken with any government agent or attorney. I spoke with Pat Santoro, Matthew Santoro's wife, on saveral occasions during this period of time. She reported to me on what she and her husband were

doing in an effort to locate Charles. On one occasion I spoke with Barbara Lucchetti, but she did not give me any information. On another occasion Barbara's sister Elaine telephone me to advise me that a suicide note had been found.

On March 31st Charles Lucchetti did telephone me at my home (I correct the April 1st date given in my earlier affidavit.) He refused to tell me where he was. I pleaded with him for his sake and for the families' sake to surrender himself. I begged him to contact Elliot Wales, and to make arrangements through him. I reviewed with him the financial tragedy he was causing the entire family by his having taken off. I reminded him that everyone in the family stood to lose their homes and their money. I told him that we stood to lose a very valuable home which had cost us our live's savings. I told him that we had borrowed money to assist him to post bail. I reminded him that Matthew's mother had posted her house, and that he knew of the tragedy this would cause the family. I urged him to surrender immediately so that the family could be saved. Charles agreed with me that he should save the family and surrender himself. He promised to call Elliot Wales, and make the necessary arrangements.

I then telephoned Elliot Wales; advised him of this telephone conversation, and advised him to expect a phone call from Charles. About twenty-four hours later Elliot Wales telephoned me to advise me that he had just heard from Charles, and that Charles would surrender the next morning.

On the next day Elliot Wales telephoned him to advise me that Charles had in fact surrendered. On the following Monday, April 7th, I did visit Charles at the Federal House of Detention. He told me that he had responded

to my telephone conversation, and had surrendered himself because I made him realize the financial tragedy he was causing four families.

I had honestly believed that because of the close relationship established between Charles and myself the past several years, that he did respond to my urging and the telephone conversation of March 31st, and surrendered for that reason.

While I am not employed at the moment, I was employed until recently as a clerk at the Maislin Transportation Co., Kearney, N. J., for a period of one and a half years. For seven years prior to that time I was employed as a secretary at the St. Johnsbury Trucking Co. located at Kearney, N. J.

Both my husband and I have always been hard working, honest and decent people trying to do the right thing in life. We had hoped that by allowing Charles to be admitted to bail, we were giving him an opportunity to show that he had profited from four years of prison life, and that he was prepared to get a job and make a clean start. Obviously events have proved us wrong. However, I can assure you that at all times our feelings were completely selfless, and designed solely to assist Charles. After all, he is our nephew, and the family did call upon us in these difficult times.

We obviously made an error in judgment because we were just unable, to predict with accuracy what Charles would do upon his release. However, I ask that our lives, and that of our two children, not be jeopardized, because we did make this error in judgment. After all Charles did surrender himself three weeks later, and the inconvenience and consequences to both the Court

and the government are not as serious as those caused by the potential forfeiture to us.

I remind the Court that there are critical times in the life of a family, when extremely hard decisions have to be made for the family's sake. Family members are often called upon to do things which they would never do if they were an outsider. The posting of our home was a very difficult decision, and we did it with the hope that perhaps we could contribute to Charles' betterment.

I ask that we not pay a too high a price because we erred in our judgment in this matter.

Laura Santoro

Sworn to before me this

21st day of April, 1975

H. ELLIOT WALES
HOTARY PUBLIC, STATE OF NEW YORK
No. 24-4129915

Qualified in Kings County
Commission Expires March 31, 1977

UNITED STATES OF AMERICA, INDICTMENT #71 CR 849 INDICTMENT #75 CR 25

-against- :

CHARLES LUCCHETTI,

AFFIDAVIT OF SURETY ALBERT SANTORO

Defendant.

STATE OF NEW YORK

) SS .:

)

COUNTY OF NEW YORK)

ALBERT SANTORO, being duly sworn, deposes and says:

I reside at 2000 Linwood Avenue, Fort Lee, New Jersey, 07024 (telephone 201-947-2537).

I am one of the sureties in this matter, having posted the home owned by my wife and myself at 13 Emerald Drive, Vernon, New Jersey (Sussex County).

The home in question is a one family private dwelling - three bedroomswhich I had constructed in 1972 on land I had purchased earlier in 1967. I purchased the land in 1967 at a price of \$4500.00. In 1972 I arranged for a builder to build the home, which he did at a cost to me of \$42,000. At that time the Community National Bank of Vernon, N. J. advanced a mortgage loan in the sum of \$21,400.00. The balance due on that mortgage at this time is somewhat in excess of \$19,000.

I would estimate at this time that the home is now worth the sum of somewhat in the neighborhood of \$60,000. I have made improvements on it in the last several years, and of course inflation increased its value.

I should add that approximately six months ago I purchased an adjoining lot for the sum of \$6,000 - \$1,000 down, and the balance to be paid off
overa period of time.

I worked as a resident manager of a large multi-family complex (1000 families) known as Mediterranean Towers, which is located at 2000 Linwood Avenue, Fort Lee, N. J. 07024. My compensation is \$15,000 per year, plus the use of a three bedroom apartment in the complex. I have had that position the past eight years, and my family and I have lived at the complex these past eight years.

I am forty-five years of age, having been born February II, 1930.

I have been married more than twenty-three years, having been married on January 20, 1952. I have two children, both of whom attend school full time, and both of whom still maintain their home with my wife and myself. My son Matthew is aged twenty, and is a second year pre-law student at the American University, Washington, D. C. My daughter Stephanie is aged 17, and is due to graduate this June from the Fort Lee High School. In September she expects to enter a two year college.

I served in the United States Marine Corps 1947-1950.

In addition to posting the home, my wife and I did post \$7500.00 in cash. Actually, we did not have \$7500.00, and so we used \$2500.00 of our own cash, plus \$5,000 that we borrowed from a friend. As of now our cash resources are next to nothing. We own some stock, which is worth now approximately \$4,000. We have no other assets, other than a three year old automobile and a five year old station wagon.

I am related to Charles Lucchetti by blood. He is the son of my sister

Concetta. Actually neither my wife nor myself were close to Charles until after he was sentenced to prison in this matter in 971. Since that time we developed great sympathy with him because of his predicament. Actually my wife has stronger feelings towards him than I do. I last saw Charles Lucchetti on Sunday, March 9th, when I dropped by his home for a visit. Since that time I have not seen him nor spoken with him, except when I saw him in court this past week.

On March 12th in the afternoon, I was advised by my wife that Elliot Wales had called, and had urged us to appear in court at 4:00 o'clock that afternoon. While in court, I did speak briefly with Joan O'Brien, the government attorney. Also I did speak briefly with FBI Agent Sweeny. I assured Sweeny that I would contact him if I heard anything relative to Charles Lucchetti.

Since March 12th I have spoken on several occasions with my nephew, Matthew Santoro, who advised me of what steps he and his wife were making in an effort to locate Charles. I spoke on a regular basis with Elliot Wales and also with my sister-in-law, Rose Santoro.

On one occasion Barbara Lucchetti's sister Elaine telephonedme to advise me that a suicide note had been found. During this period of time I spoke only once with Barbara Lucchetti and she had no information for me.

Actually there was nothing my wife or I could do to effectively locate Charles Lucchetti. We had always lived in New Jersey, and he had lived in Suffolk County. Actually we never really got close to him until after he was sentenced in this matter in 1971. As such we just never knew any of his friends or associates, and we never knew where he had spent his time. As such we were dependent upon either Matthew Santoro, Pat Santoro, or the FBI agents to locate Charles.

Except for the stock and automobiles mentioned above, neither my wife nor myself have any assets, other than the home which we are about to lose in this proceeding.

Furthermore, I am still obligated to repay the \$5,000 toan which I borrowed in order to post the \$7500.00 in cash.

Furthermore, I remind the Court that a judgment of \$200,000 was entered against me, and as I am a salaried man, I could spend a lifetime just working off the judgment.

I have two children who are still dependent upon me for the completion of their education. My son is a second year pre-law student, and as such still has five years of college and law school training ahead of him. My daughter still has two years of schooling in front of her. As such the hardship posed by this forfeiture is such as to destroy the effectiveness of our family to educate our children and meet our basic minimum needs.

Albert Santoro

Sworn to before me this

21st day of April, 1975

MMX Wills

PA. ELLIOT WALES

PARTAMY PUBLIC, STATE OF HEW YORK

No. 21-4129915

Consider in Manage Company

America the sum of TWO HUNDRED THOUSAND (\$200,000) dollars to be levied on their goods and chattels, lands and tenements if default be made in any of the conditions following, to wit: That the said defendant principal having been charged with the following offense, to wit: that he did on or about the 21st day of December within the said District, violate Section 2113(a)(d) of T. 18 USC as more fully set forth in the INDICTMENT - KNEWRMATIONX And an INDICTMENT XXXIXXCXXXXIXXX having been filed in the District Court, Eastern District of New York, against said principal by reason of the above biolation. NOW, THE CONDITION OF THIS RECOGNIZANCE is such that if the said defendant principal shall personally appear before the District Court of the United States for the Eastern District of New York on the first day of the term commencing on the _____ day of _____ 19 or prior thereto, when notified by mail by the United States Attorney, addressed to the last known Post Office address given by him, and from term to term and time to time thereafter to which the case may be continued, then and there to answer said charge, and then and there render himself amenable to the order and processes of the District Court and not depart from said District without leave* and if convicted, shall appear for judgment and render himself in execution thereof upon such day as the District Court may order; then this recognizance shall be void otherwise to remain in full force and virtue. We do hereby authorize the filing of a lien against the following properties: Patricia Vidal, 24 Valley Stream Street, Islip Terrace, New York; e M. Santoro, 48 Richards Avenue, Islip Terrace, New York; Barbara Lucchetti, 66 West Pine Street, Islip, New York; . Albert and Laura Santoro, 13 Emerald Drive, Vernon, New Jersey. eventy-Five Hundred (\$7500) Cash - Receipt No. 59458 deposited with Court lerk as security. ail subject to conditions of release accompanying this order. Taken and acknowledged before me this 31st day of January (SEAI

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UNITED STATES OF AMERICA

ORDER OF FORFEITURE
OF BAIL BOND

- against -

75 CR 25

CHARLES LUCCHETTI,

Defendant,

- and -

BARBARA LUCCHETTI, ROSE M. SANTORO, PATRICIA VIDAL and ALBERT and LAURA SANTORO,

Sureties.

THE UNITED STATES OF AMERICA, having moved this Court on the 12th day of March 1975, for an order declaring the forfeiture of the bail bond of CHARLES LUCCHETTI in the amount of \$200,000, filed by BARBARA LUCCHETTI, ROSE M. SANTORO, PATRICIA VIDAL and ALBERT and LAURA SANTORO, sureties, the said motion having duly come on for hearing before me on the 12th day of March 1975, wherein DAVID G. TRAGER, United States Attorney for the Eastern District of New York, by Joan S. O'Brien, Assistant United States Attorney, of counsel, appeared in support of said motion, and no one having appeared in opposition thereto, and on all of the papers and proceedings heretofore had and filed herein, and it satisfactorily appearing that there exists a breach of condition of said bond, to wit: that the limits of the bail shall be to the Town of Islip, County of Suffolk, New York and to and from the office of H. Elliot Wales at 747 Third Avenue, New York, New York 1061

NOW, upon the motion of DAVID G. TRAGER, United States Attorney for the Eastern District of New York, it is

ORDERED that the bail bond of the defendant CHARLES LUCCHETTI in the amount of \$200,000, filed by BARBARA LUCCHETTI, ROSE M. SANTORO, PATRICIA VIDAL and ALBERT and LAURA SANTORO, sureties, be and it hereby is declared forfeited.

Dated: Brooklyn, New York March 2/, 1975

UNITED STATES DISTRICT JUDGE
Eastern District of New York

UNITED STATES OF AMERICA

- against -

JUDGMENT AND ORDER OF SALE

CHARLES LUCCHETTI,

Defendant,

75 CR 25

- and -

ALBERT SANTORO, LAURA SANTORO,
BARBARA LUCCHEFTL, ROSE M. SANTORO
and PATRICIA VIDAL,

Sureties.

The court having declared a breach of the conditions of the bail bond in the above entitled matter and having granted a forfeiture of the bail on the 12th day of March, 1975, and

The United States of America having moved by order to show cause dated the 21st day of March, 1975 for a judgment against the defendant, Charles Lucchetti, and the sureties, Albert Santoro, Laura Santoro, Barbara Lucchetti, Rose M. Santoro and Patricia Vidal, and notice of motion having been served on all the sureties in accordance with Rule 46 of the Federal Rules of Criminal Procedure, and proof of due service having been submitted and the motion having come on to be heard before me on the 31st day of March, 1975, and the 2nd day of April, 1975, and Albert Santoro, Laura Santoro and Rose Santoro having appeared on the 31st day of March, 1975 and having not opposed the motion, and Barbara Lucchetti and Patricia Vidal having appeared on the 2nd day of April, 1975, and having not opposed the motion, and David G. Trager, United States Attorney for the Eastern District of New York, by Joan S. O'Brien, Assistant United States Attorney, of counsel.

§§2001 and 2002, and it is further

ORDERED, ADJUDGED AND DECREED that the United States Marshal for the Eastern District of New York sell all the right, title and interest of the following sureties in the following premises:

(1) of Rose M. Santoro in and to the premises known as and by 48 Richards Avenue, Islip Terrace, New York, more particularly described as follows:

Beginning at a point on the southerly side of Richard Avenue distant Two hundred eight and 28/100 (208.28) feet westerly from the corner formed by the intersection of the southerly side of Richard Avenue and the Westerly side of Kunigunda Place; running . thence southerly at right angles to Richard Avenue One Hundred eighty-three and 62/100 (183.62) feet; thence westerly parallel with Richard Avenue One hundred (100) feet; thence northerly again at right angles to Richard Avenue One hundred eighty-three and 62/100 (183.62) feet to the southerly side of Richard Avenue; thence easterly along the southerly side of Richard Avenue One hundred (100) feet to the point or place of beginning.

(2) of Barbara Lucchetti in and to the premises known as and by 66 West Pine Street, Islip, New York,

having appeared in support of said motion on both dates, and on all the papers and proceedings heretofore had and filed herein,

NOW on motion of David G. Trager, United States
Attorney for the Eastern District of New York, it is

ORDERED, ADJUDGED AND DECREED that the United

States of America have judgment against the defendant,

Charles Lucchetti, and the sureties, Albert Santoro,

Laura Santoro, Barbara Lucchetti, Rose M. Santoro and

Patricia Vidal, in the sum of \$200,000 and that execution

issue. It is further

ORDERED, ADJUDGED AND DECREED that the Clerk of the Court, United States District Court for the Eastern District of New York pay out of the registry of the United States District Court the sum of \$7,500 cash deposited by Albert Santoro as bail on said action to the Treasurer of the United States of America toward payment of the judgment herein, and it is further

ORDERED, ADJUDGED AND DECREED that the United

States Marshal for the District of New Jersey sell all the

right, title and interest of Albert and Laura Santoro in

and to the premises known as and by 13 Emerald Drive,

Vernon, New Jersey, more particularly described as follows:

as a parcel of land in the Township of Vernon, County of Sussex, State of New Jersey as shown on a map of Barry Lakes filed in the Sussex County Clerk's Office on the 6th day of May, 1966 known as Map No. 372C and designated as Plot No. 13, Block No. 103E, Section Bl,

at public sale after publication of notice of sale in a

more particularly described as follows:

a parcel of land in the Town of
Islip, County of Suffolk and State
of New York, known and designated
on a certain map entitled "Map of
Property of Cadman H. Frederick,
258 Broadway, New York City" dated
January, 1926 surveyed by Eugene R.
Smith, Inc., C.E. Islip, New York,
and filed in the Suffolk County Clerk's
Office February 23, 1926 as Map. 224,
as and by the Lot No. 354.

(3) of Patricia Vidal in and to the premises known as and by 24 Valley Stream Street, Islip Terrace, New York, more particularly described as

Beginning at a point on the

Southerly side of Valley Stream

Street distant 1100 feet westerly

from the corner formed by the

intersection of the southerly side

of Valley Stream Street with the

Westerly side of Greenlawn Avenue;

thence southerly at right angles to

the southerly side of Valley Stream

Street 250 feet; thence westerly

and parallel to the southerly side

of Valley Stream Street 100 feet;

thence northerly and at right angles

The aforementioned premises in New York shall be sold at public sale after publication in the Long Island Daily Press (Nassau-Suffolk Edition) in accordance with 28 U.S.C. §§2001 and 2002, and it is further

ORDERED that the net proceeds of the sale after deducting costs of publication and statutory fees shall be applied to the payment of the judgment entered herein.

Dated: Brooklyn, New York
April & , 1975

UNITED STATES DISTRICT JUDGE
Eastern District of New York

U.S. DISTINCT COURT E.D. N.Y. 1 UNITED STATES DISTRICT COURT JAN 17 1975 3 EASTERN DISTRICT OF NEW YORK Mile Att. P.M. UNITED STATES OF AMERICA 6 -against-: 71 CR 249 CHARLES LUCCHETTI, 3 Defendant. : 9 500 CO 65 60 CE 600 600 600 600 600 600 FO FO 10 United States Courthouse Brooklyn, New York 11 December 24, 1974 12 2:00 p.m. 13 14 Before: HONORABLE JACOB MISHLER, Chief U.S.D.J. 16 17 HEARING ON REDUCTION OF DAIL 18 19 1 20 21 : Poster whisteries of T.Z. . . 23

> GERALD I. METZ, C.S.R. ACTING OFFICIAL COURT REPORTER

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APPEARANCES:

DAVID G. TRAGER, ESQ., United States Attorney for the Eastern District of New York

BY: JOAN S. O'BRIEN, Assistant United States Attorney, Of Counsel

ELLICT WALES, ESQ. Attorney for the Defendant 747 Third Avenue New York, N. Y. 10017

ALSO PRESENT:

BARDARA LUCCHETTI, Wife of the Defendant

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THE CLERK: Criminal cause, bail application,
United States of America against Charles
Lucchetti.

MR. WALES: Good afternoon, Judge Mishler.

THE COURT: Have you been retained?

MR. WALES: For today, your Honor, just

for today.

THE COURT: No Notice of Appearance?

MR. WALES: I haven't filed one, as yet. I have been retained just for today, just for this bail application, your Honor. What the future is is something else.

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THE COURT: There is such a confusion about representation of Mr. Lucchetti that I question every lawyer who appears. How were you retained?

MR. WALES: Well, Mrs. Lucchetti spoke to me yesterday and asked me to represent him.

THE COURT: Who is Mrs. Lucchetti?

MR. WALES: Will you please stand up,

Mrs. Lucchetti?

(Mrs. Lucchetti rises)

MR. WALES: Mr. Lucchetti's wife.

THE COURT: Go ahead.

MR. WALES: I am here just for today, your Honor. It may well be that I will stay in the

picture. But it's premature. I am sorry, I just can't give you an answer.

THE COURT: Mr. Corbett was assigned because he had no funds. If he does have money, I won't assign anyone. When Mr. Lucchetti had retained Mr. -- I forget the name of the lawyer out in Suffolk County.

MR. WALES: Kenneth Rowe.

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THE COURT: -- he tried to fire him during the trial. Then he re-hired him during the trial. I assigned Mr. Corbett to him and he fired him even before he saw Mr. Corbett. So welcome to the group.

MR. WALES: I haven't been fired yet.

THE COURT: I am not sure you have been hired, even, because I have Mr. Corbett down as the attorney, but I won't recognize you for any other purpose after this unless you file a Notice of Appearance. Don't come in for anything. You are either in or you are not, because I have to get things straightened out with Mr. Lucchetti.

MS. O'BRIEN: Your Honor, if I may interject, I have scheduled for January third to put it on for a status report, and I have writted Mr. Lucchetti in from Louisburg on that date. So

I don't know if he -- I am sure Mr. Wales wasn't informed of that.

MR. WALES: I saw the writ and I am aware he's due in for January third. Identainly will resolve this question one way or another, and promptly advise you, Judge Mishler, and the government.

Your Honor, you set \$75,000 bail in your opinion last week and, of course, your words were-you used the original bail that had been set back in June, '71.

THE COURT: That's right.

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MR. WALES: That original bail had been set by Judge Travia at the time of the arrest and the arraignment, and that bail was never disturbed.

On the other hand, it was never posted, either, and after trial, of course, the bail was raised.

What we do have is this situation. It's now three and a half years later, and obviously if Mr. Lucchetti could not post the \$75,000 bail three and a half years ago, now three and a half years later, I can assure you that his cash resources of his family and of himself have been drained, and it presents more of a problem today than it did then.

which can be posted as security. The bonding company feels that in view of the size of the bail, \$75,000, that houses alone are not sufficient, and they require a substantial amount of cash in addition. This cash the family cannot raise. So, of course, we have to make an effort to see if the bail can be reduced to a limit in which the bonding company would be satisfied with the four houses plus a substantially reduced amount of cash.

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Fack in '71, when the original bail was sat, the defendant also had another problem in Suffolk County, and that undoubtedly was a factor in motivating Judge Travia to set the bail, which he did, because Mr. Lucchetti had two problems, rather than one. That problem has long since disappeared.

THE COURT: How did it disappear?

MR. WALES: I believe there was a plea and a sentence which was concurrent. I think it was a one-year sentence which was concurrent with the Federal sentence.

THE COURT: What was the charge out there?

MR. WALES: I think it was a felony charge

which I think was reduced to a misdemeanor, to which there was a plea. I think the plea was on criminal possession.

THE COURT: What was the charge?

MR. WALES: My recollection was -- let me check my notes, if I may.

I think it was a robbery charge. I think it was --

THE COURT: Armed robbery.

MR. WALES: I think it was attempted robbery—
my notes just show attempted robbery in the first
degree. There was a plea to criminal possession,
a misdemeanor, a one-year sentence as of
November 13, 1972, with a one-year sentence to be
served concurrent with the Federal sentence. So
of course, that's been served.

The reason I mentioned this is the fact that in June, '71, Mr. Lucchetti was facing two problems. Not only Judge Travia was motivated by that In setting bail. Now the problem has been somewhat reduced. He only has one.

Also, in terms of the sentence, your Honor, of course, imposed a sentence of 20 years, and he's been in not only ever since then, but he was in continuously months before that. So, of course,

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under North Carolina versus Pierce, that would be the maximum sentence on a retrial.

THE COURT: I am not too sure of that. If
you read it very carefully, if the trial discloses
matters that I didn't take into consideration --

MR. WALES: I thin k it's matters, though, since the time of the imposition of the sentence.

THE COURT: Is that the way you read it?

MR. WALES: Yes.

THE COURT: Well, that's not the way I read

it. If I learn more about this defendant that

wasn't disclosed at the time of sentence, regard
less of when it occurred, I might very wall

increase the sentence. We will read the case

together one day.

MR. WALES: We will read it together, and if it becomes necessary for a matter of Appellate review, of course we will. But I do submit, your Honor, that abject to another conviction, subject to your Honor finding things that you didn't know about, and subject to your Honor wishing to take those into consideration --

THE COURT: We will assume he won't get more than 20 years.

MR. WALES: All right, fine.

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He's got almost four years in already. The maximum on a 20-year sentence that a defendant would serve is 13 years, barring, of course, numerous violations and infractions of the institution; probably, more probable the range of service of centence would probably be more in the range of 10 to 12 years. So the result is having almost four years in, we do have a man who is realistically facing another six years of service of centence, if he should go down in this coming trial.

I submit that the bail should reflect that he's facing another six years. He's not facing 20 years, and he's not facing the types of problems that he faced back in '71 when Judge Travia first set the bail at \$75,000.

In spite of the fact he's been away three, four years, his family still has been behind him. His wife is here in the courtroom. Apparently she is a very loyal wife. There are other members of his family, too, members of his family willing to post four houses.

THE COURT: How much are the four houses worth; what's the equity?

MR. WALES: Here's the information I have on

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the four houses. One house is the Lucchetti house itself, which is in Islip. It was purchased about six, seven years ago for \$28,000. The mortgage now is \$13,000. In terms of the value, well, that's debatable, in terms of today's market.

MR. WALES: The second house is a sister of
Mrs. Lucchetti, who has a house in Eayshore on
Thompson Drive. It's a one-family house, purchased
about a year and a half ago for \$48,000, no

THE COURT: Go ahead. What's the next house?

THE COURT: How much?

mortgage.

MR. WALES: No mortgage.

The third house is an aunt named Laura and Al Santora, who live at Great Gorge, New York (sic), one-family house purchased four, five years ago.

I understand the purchase price is \$48,000. It's subject to some mortgage. I don't know the figure and I don't know the value. But in today's real estate market we could assume the value is more than \$48,000.

The fourth home is a friend of

Mrs. Lucchetti named Pat Videll, who has a home
in Valley Stream Street in Islip, one-family house
purchased about four, five years ago. It's a more

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modest house. I believe the value is somewhere in the neighborhood of \$35,000. It's subject to a mortgage. I don't know the amount.

This is pretty good collateral, and yet, in spite of that, the bonding company will not accept that collateral alone in order to post the \$75,000 bond. Apparently bonding companies are tough, and they want more than real estate. They want some cash, a very substantial amount of cash.

THE COURT: How much cash do you have to put up?

MR. WALES: The most, I believe -- and it's still premature -- the most, I believe, that we could raise is \$10,000. But that's not sufficient for the bonding company. They want \$25,000 cash plus these houses, in order to write a \$75,000 bond. On the other hand, if the bond is substantially reduced, they are willing to take these houses with a lot less cash.

Now, I recognize, of course, it's a serious charge. I recognize the defendant's predicament. I recognize the Court's, the government's and society's ri t to call upon adequate security. So I am not questioning that at all. But I am suggesting, though, your Honor,

is the \$75,000 figure could be substantially reduced, and reduced to a figure which would tie up the family -- obviously this is a fairly tight-knit family -- would tie them up assetwise, would permit the defendant to be at liberty pending the trial or other appeals that may follow, and would reasonably ensure his appearances, and that is my application, your Honor.

THE COURT: Ms. O'Brien?

MS. O'BRIEN: Your Honor, I have here the defendant's pre-sentence reports. It has a listing of two pages of the defendant's arrest record. It indicates this defendant has a long history of criminal behavior. This is not a once-in-a-lifetime shot. I feel that if \$75,000 were considered suitable prior to a conviction, that the bail should rather be increased than decreased on this occasion.

THE COURT: I wouldn't reduce it one
nickel. I find that Mr. Lucchetti has demonstrated before me his -- you have to measure words
because he analyzes everything I say, takes it
out of sontext and throws it back.

MR. WALES: I won't repeat it to him.

THE COURT: It's on the record. I don't mind saying it, but I am going to be very careful what I say.

I find him to be wily, resourceful, intelligent, unpredictable. In my opinion he somehow produced affidavits by four inmates. I think each one of them committed perjury. I think that he impressed me as being one — sit down, Mrs. Lucchetti. I know Mr. Lucchetti even better than you do.

I wouldn't reduce it one nickel. But if
the family is willing to put up all this
security, and if I impose conditions to make
sure that he and his family keep away from
government witnesses, -- because there was a
suggestion of intimidation, and I saw it before
me, and the penalty for interfering with
government witnesses would be a forfeiture of
the bond, let the whole family lose everything -I would be inclined to do it. But let them know
the risks. I want everybody to sign the bond. I
want all the security put up and \$7500 in cash.
I want as one of the conditions that no one,
except Mr. Lucchetti's lawyer, contact or
attempt to contact the government witnesses, and

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I am particularly referring to Mr. Dempsey and Mr. Williams, and the penalty for violation of that condition will be forfeiture of all the security, of the bond, possible sale of that security.

I want affidavits. I want as owner searches to prove and to show who owns the property, that there are no other liens than as represented. For example, Mr. Wales said that the Lucchetti home has about a \$13,00 mortgage or a \$15,000 mortgage -- I forget which -- \$28,000 or \$13,000 mortgage, \$15,000 equity. I require proof from the bank that the mortgages have beer reduced, that there are no arrears, the same with each piece of property. So that will save Mr. Lucchetti the premium. It will give the government, I feel, enough security, and it will put Mr. Lucchetti and the Lucchetti family on the alert, make sure you don't contact any government witness, Mr. Dempsey, Mr. Williams particularly, except that, of course, the lawyer may do it, whoever it might be. Right now it's Mr. Corbett, as far as I am concerned.

So there you have the bail conditions. I have saved Mr. Lucchetti a lot of money. He has

the opportunity to get out, but he's to be ready for trial. I don't know whether he's going to be ready -- what day is it fixed for?

MS. O'BRIEN: January 20.

THE COURT: -- on the 20th of January because he doesn't even know who his lawyer is, but I will give him one adjournment. But let him come in and ask for it. Let him come in and tell me who his lawyer is.

MS. O'BRIEN: May I ascertain the total amount of equity in the houses that your Honor is setting?

THE COURT: One house was \$48,000 free and clear. I see that. I am asking for \$7500 in cash. There is \$15,000 in the other house, and there are two I don't even know of, so there it's over \$75,000 already.

MR. WALES: Would the format, your Honor, be a \$75,000 --

THE COURT: Personal appearance bond. The wife to cosign the bond, everybody else as surety, people who own the houses.

MR. WALES: They are surety to the extent they own the real estate or the whole \$75,000?

THE COURT: The whole \$75,000.

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MS. O'BRIEN: Are we to receive the liens on those houses?

THE COURT: You certainly should. I would say as soon as he is released on bond, that you file the bond. They are all in Suffolk County, right? File the bond in Suffolk County. It becomes a lien on all the houses.

MR. WALES: There is one property in Great Gorge, New York. (sic)

THE COURT: That's New Jersey, isn't it?
I thought it's all in Suffolk County.

MR. WALES: There is three out of four.

Let me just check with Mrs. Lucchetti.

I am sorry. Great Gorge is Jersey. But we will comply.

THE COURT: Where are the other three?

MR. WALES: Suffolk County.

THE COURT: So it means two filings.

MS. O'ERIEN: If I may also add, in addition to this particular -- to the evidence that was given at this particular trial, we have, subsequent to the conviction, obtained evidence from this defendant -- he went before a grand jury and testified --

THE COURT: Ms. O'Brien, based on the

trial record, I would say the government's case is very substantial. That's why the bond is fixed at \$75,000.

MS. O'BRIEN: What I am trying to say is, in addition to admitting this particular robbery, he also confessed to two other robberies before the grand jury.

THE COURT: If you have other indictments,

I will fix additional bail. Then file the

indictments. What I say now is on the theory

that this is all that is pending. You understand

that. It may very well be that this is mute.

Mr. Lucchetti may be facing other problems.

MR. WALES: I will have to face them as they come up.

THE COURT: That's all right. But this
\$75,000 bail is in no sense to be understood
to preclude any additional bail when the
indictments are filed, because you were telling
me that realistically, he's facing about six,
seven or eight more years. Well, if other
indictments are filed, he may be facing 40 years
or 50 years.

MR. WALES: I understand that, your Honor. Of Course, your Honor.

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THE COURT: Well, we understand each other.

MS. O'BRIEN: Thank you, your Honor.

MR. WALES: Thank you, your Honor.

(At 2:30 p.m., the hearing was closed)

1	UNITED STATES DISTRICT COURT
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3	EASTERN DISTRICT OF NEW YORK
4	AND AND THE CASE FOR THE STEEL AND THE STEEL
	UNITED STATES OF AMERICA, :
5	-against- : 71 CR 849
6	CHARLES LUCCHETTI, :
7	Defendant.
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10	United States Courthouse Brooklyn, New York
11	January 15, 1975 4:00 o'clock p.m.
12	4200 G-Glock P.m.
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15	Before: HONORABLE CHIEF JUDGE JACOB MISHLER, U.S.D.J.
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23	MICHAEL PICOZZI
	OFFICIAL COURT REPORTER
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Appearances:

DAVID G. TRAGER, ESQ., United States Attorney for the Eastern District of New York

BY: JOAN O'BRIEN, ESQ., Assistant US Attorney

ELLIOT WALES, ESQ., Attorney for Defendant

THE CLERK: Bail application, Charles

MS. O'BRIEN: Good afternoon.

MR. WALES: With respect to 71 CR 849 and 75 CR 25 --

THE COURT: What is the application?

MR. WALES: Your Honor, we recall that on --

THE COURT: I remember everything about this, there are very few cases that stand in my mind so clearly, very few arguments I have retained as I did your argument, Mr. Wales.

MR. WALES: Thank you. With respect to 71 CR 849, your Honor set bail on December 24th. Your Honor recalls the terms and conditions ---

THE COURT: Absolutely.

MR. WALES: As of last week --- well, the Government filed 75 CR 25.

THE COURT: I fixed bail at \$200,000.

MR. WALES: On 75 --

THE COURT: I refuse to hear you because you weren't retained.

MR. WALES: I am now retained. My request is this, your Honor, the family has posted all the collateral they have. I believe your Honor was satisfied on the presentation I made that this was

behind me and you saw the family in court. They posted their houses and cash.

THE COURT: I am satisfied with that. I don't know the equity in the houses --

MR. WALES: I am going to suggest the equity in the houses was more than ample to support a \$75,000 personal recognizance bond. We have \$7500 in cash. We do have the signature of numerous members of the family which collectively put the houses together to exceed that figure. My request is -- if your HOnor sees fit to raise the amount, and I of course prefer you didn't, my argument is \$75,000 bond for one is ample and if your Honor sees fit to raise it my argument is this, that of course the family and the defendant can sign an additional personal recognizance bond. That presents no problem. The family exhausted its money but I do suggest that the collateral is ample to support a higher personal recognizance bond. I cannot have any objection if your Honor makes it a higher amount. If you wish additional \$25,000 bond personal recognizance --

THE COURT: You don't care what the amount is as long as I don't ask for more collateral?

MR. WALES: Yes. My argument is based on this,

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Lucchetti has a family who is behind him. Despite the fact he's been away, the family has shown loyalty and I suggest it goes both ways. They have put up everything they have. Let me make this argument, I don't want to be presumptive in anticipating what your Honor -- well, let me put it this way, I suggest when you sentence Lucchetti four years ago that the sentence was based upon what you saw as a pattern of his life and not just a single isolated transaction 10 for which he was convicted. I believe that your Honor 11 had the feeling that the --12 THE COURT: I considered nothing except that 13 14 15 16

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he was the mastermind and Dempsey and Wills did his bidding. He planned everything. He stayed in the background, took the money, and doled it out to them. That was the evidence before me. I thought it was an armed bank robbery and he earned 20 years.

MR. WALES: Perhaps I read your Honor wrong. Let me suggest this, if I am wrong I am wrong. I believe that if the probation report were to show -if it did show back in '71 that Lucchetti had a spotless life and there was a single isolated transaction, that your Honor would not have given him 20 years. But I think, your Honor, based on the presentence report, your Honor took into consideration --- THE COURT: I can't answer that at this time so there is no sense speculating.

MR. WALES: Your Honor did take into consideration what was in the presentence report. Either his involvement in other involvements or possible involvement.

THE COURT: Nr. Wales, I disregard much of the presentence report.

MR. WALES: Probably not all, your Honor.

THE COURT: If a defendant made a statement admitting his implication them I would take it under consideration. If he did not I doubt it very much.

MR. WALES: Let me put it this way, that actually the existence of this new indictment charging several bank robberies back in 1970 in totality would really affect the sentence substantially that your Honor were to impose if he were to be convicted on all.

THE COURT: The new one can be substantial, as Ms. O'Brien told me that one man was killed by pulling out the pin of a hand grenade --

MS. O'BRIEN: That is correct, the robber himself attempted to pull out the pin of the hand grenade and the cops killed him.

THE COURT: He had a hand grenade ready to

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throw at the cops.

MS. O'BRIEN: The device was triggered to go off more quickly than a normal hand grenade.

THE COURT: When he pulled the pin out he was blown to bits?

MS. O'BRIEN: No, the police saw him go for it and they killed him.

MR. WALES: I am judging by my experience that what I think motivates sentences to be what they are --

THE COURT: That would be a very significant factor in sentencing. If shown by the testimony that he planned it that way.

MR. WALES: Let me suggest this, your Honor,
perhaps you can hear me, my argument is this, your Honor,
that when he was convicted on one bank robbery or two,
I think in the total sentence to be imposed, if
convicted on all there would be a significant difference

Ms. O'Brien represents someone was killed in that manner, and where someone is murdered in the bank robbery, I have given 25 years. In one case I gave life.

MR. WALES: My argument is this, your Honor,
your Honor imposed a 20 year sentence on the first
indictment. With regard to the recent trial your Honor

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would be ample. I have no quarrel with that. I am suggesting with respect to the subsequent indictment that the defendant — I don't want to sound to presumptuous and try to read your mind, but the defendant doesn't face that much more time. Your Honor took into consideration a pattern of Lucchetti's life and that if he was to be sentenced again by your Honor in both cases that the sentence would not be substantially at variance with the sentence that you did give four years ago.

THE COURT: I think your presumption is entirely

-- well, there is no foundation to concede that, but

I think if the reverse had been so, had Mr. Lucchetti

been convicted before me on a bank robbery where someone

was killed, I don't think I would be thinking of

20 years. Why should he get the benefit of the

20 year sentence that I gave him just because I didn't

know that there was another bank robbery where someone

was killed? And mind you, part of the plan was to

kill a police officer.

MR. WALES: It is difficult for me to argue the evidence. The person killed was a codefendant, not an innocent victim.

THE COURT: That's what happened in the Otis

Springs case, two were killed. I am not sure that the guard was killed, I can't recall. The guard was killed too. And he fired and his accomplice that was killed. It was the same bank Henry Stuart Brown robbed. My courtroom deputy recalls the guard was killed. The sentence there was life imprisonment.

MR. WALES: In this case I believe the Government's evidence will not show Lucchetti was in the courtroom. In the bank, I mean. And I understand too — I'm not trying to read between the lines — in view of the fact the two accomplices are now deceased —

THE COURT: Mr. Otis Springs didn't fire the gun. I have an application to give 4201 for him to be entitled to a parole hearing before 15 years. And his argument is it was his accomplice that had the gun and he was unarmed. The fact that Mr. Lucchetti did not have the grenade wouldn't be important. It would be important if the evidence showed it was his plan and Ms. O'Brien indicates that it is.

MR. WALES: Your Honor will never know that.

THE COURT: I don't know.

MR. WALES: I will tell you why, the two accomplices are deceased. We will never know.

MS. O'BRIEN: That is not correct. This is a different bank robbery.

THE COURT: Now, I'm talking about ---

MS. O'BRIEN: December 20th was not the incident where the man was killed. He was killed in a May, '71 bank robbery. That is a different bank robbery.

THE COURT: It wasn't the same.

MS. O'BRIEN: Dempsey and Wills and Lucchetti planned that one.

THE COURT: I'm sorry. You say that Dempsey is ready to testify that he had a grenade?

MS. O'BRIEN: No. The police will testify
that Greenmeyer had a grenade and went to pull the
pin and they shot him. In the May, '71 robbery. That
is with Dempsey and Wills.

THE COURT: With Greenmeyer?

MR. WALES: He is not indicted on that.

MS. O'BRIEN: They were with him.

MR. WALES: That is not a charge we are facing, Ms. O'Brien.

MS. O'BRIEN: Yes. They are available and they can testify.

THE COURT: Are they coming in to testify on another bank robbery?

MS. O'BRIEN: The first case is December 21, 197
bank robbery. They are going to testify on that.
There are three others, May 9th, May 20th, and

April 20th, 1970.

MR. WALES: No, March.

MS. O'BRIEN: March 9th, 20th, April 20th, 1970. There is an additional May, ? /l bank robbery. The present time we have not brought an indictment against this defendant. We are considering an indictment in this case. In that one Mr. Greenmeyer was killed.

Mr. Greenmeyer was also a participant in the March 9th and March 20th case.

If your Honor will allow me, I can give you a rundown.

THE COURT: I have it now. I am just puzzled.

The other case where you have live witnesses was not submitted. Now you tell me the indictment returned was based solely on Lucchetti's Grand Jury testimony --

MS. O'BRIEN: The March 9th, 20th, April 20th were based on Mr. Lucchetti's Grand Jury testimony, yes. In that testimony he did not discuss the May, '71 incident.

However, we have information from Dempsey and Wills as well as the Suffolk County Police -- Dempsey and Wills were arrested --

THE COURT: Dempsey and Wills --

MS. O'BRIEN: Yes. I can give you three distinct reasons why there is substantial danger to

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Maurice Nadjari, and discussed it with a Suffolk County
District Attorney's Office. In the first place an
accomplice in the first three robberies, Chaffin was
found dead in his apartment. He had been an accomplice
in the previous three trials. When it became known
he was cooperating with the Suffolk County District
Attorney's Office he was dropped from Mr. LUcchetti's
association and they went on to do other robberies.

THE COURT: I am sorry to cut you short. If anybody is ready to take the stand and testify that the murder of that gentleman in that apartment is attributed to the defendant or any of his family —

I don't say proof beyond a reasonable doubt —

MS. O'BRIEN: I can tell you what, they will testify in the first place it was known that Chaffin was cooperating. By Mr. Lucchetti's forces it leaked out to Mr. Lucchetti. I don't know who would testify it was known to Lucchetti. He was found dead in his home. He made a number of tapes against individuals in Suffolk County. They did not find the tapes that were supposed to have been made by Mr. Chaffin against Mr. Lucchetti and his associates. They don't know whether it was Lucchetti who actually pulled the trigger or Mr. Greenmeyer who did the killing. This

is a police informant for which there is no evidence.

THE COURT: What can you bring in? Can you bring the informant in?

MS. O'BRIEN: I discussed it with the Suffolk County District Attorney and he would testify --

require admissions, confessions, or direct proof.

For the purposes of bail if after a hearing I find that the Government witnesses are in danger, or there is an indication — I won't call it proof — that Mr. Lucchetti, his friends, family, cohorts were responsible, I will remand him and Mr. Wales can go to the Court of Appeals on that remand. I will not allow bail in the light of the accusation. That's what I thought I heard the last time.

MS. O'BRIEN: There is something further. I spoke to Mr. Nadjari and Mr. Clayton the District Attorney --

THE COURT: I can't take your statement.

MS. O'BRIEN: I am adding to the record and
will substantiate it. The statements were made through
an informant of the District Attorney's Office that
there was a contract out on Dempsey and Wills. In
addition to that Mr. Nadjari informed me that
Mr. Lucchetti was a close associate with Julius Klein

out in Suffolk County and he was very concerned. He called me up this afternoon as to the Government witnesses who testified in the Julius Klein case in the event Hr. Lucchetti is -
THE COURT: Who testified in the Julius Klein case?

MS. O'BRIEN: The Government witnesses.
THE COURT: That might testify here?

MS. O'BRIEN: I don't know.

THE COURT: You are talking about an unrelated case?

MS. O'BRIEN: Yes.

THE COURT: That is a different concern.

MS. O'BRIEN: He was an associate of Julius
Klein who was convicted of first degree murder. He
was concerned that Mr. Lucchetti --

THE COURT: When can you bring in the party?

MS. O'BRIEN: I will call Mr. Clayton.

THE COURT: I am not going to reduce bail.

MR. WALES: Let me say this, I have no objection to a hearing. I would like a prompt date.

THE COURT: I don't know what my next week is going to be like --

MR. WALES: I am available morning, noon and night. I know your HOnor doesn't want to work

24 hours a day but I think the question of bail is entitled to some priority.

THE COURT: I know I have a hearing this Friday.

MR. WALES: The 24th I cannot make it, I have to be in the Court of Appeals in the morning and with Judge Pollack in the afternoon.

THE COURT: For what purpose?

MR. WALES: On a motion ---

THE COURT: How long will it take?

MR. WALES: It's a pretty substantial matter.

The argument could take 45 minutes.

THE COURT: What do you have on at 2:00 o'clock, the 24th?

MR. WALES: The early part of the week --

THE CLERK: 1:00 o'clock you have Murphy.

MS. O'BRIEN: That is my trial. We are starting

a trial.

THE COURT: There is something else I put on for the 24th. What about Murphy?

MS. O'BRIEN: That is a Wade Hearing.

THE COURT: How long will that take?

MS. O'BRIEN: I think the better part of the

afternoon. There are four to eight witnesses we have.

THE COURT: When is the trial set for?

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MS. O'BRIEN: 27th, Monday. Mr. Borg said he would not object to the trial beginning on the 27th.

THE COURT: What have you got in the morning?

MR. WALES: Arguments for the Court of Appeals.

THE COURT: What time?

MR. WALES: I don't know. It's up to them.

They put four matters on. I wouldn't know. I might
be able to arrange to be called first.

THE COURT: Put it off for 11:00 o'clock.

MR. WALES: I can't get over that fast.

THE COURT: 11:30.

MR. WALES: That is condition on the Court of Appeals accommadating me and putting me on first.

THE COURT: Would you ask for it?

MR. WALES: Yes.

THE COURT: Do you know who the panel is?

MR. WALES: No. Today is Thursday or Wednesday,
I will know tomorrow afternoon. I can talk to the
Clerk in charge of the panel.

THE COURT: Tell them you have a bail hearing.

MR. WALES: Is it possible to do it on Monday

or --

THE COURT: I have a trial but if I knew the hearing was going to take a half hour I could put it

on at 9:15.

MR. WALES: Is it possible you could put it on for 4:30 so we don't have a time pressure?

MS. O'BRIEN: If I may, neither of us would object to commencing the Murphy trial -- we are scheduled to begin at 1:00 o'clock for the photo ID -

THE COURT: When would you have the Wade?

MS. O'BRIEN: It was scheduled for Monday. Your Honor put it on ---

THE COURT: I want to pick a jury. The defendants are in custody in Murphy.

MS. O'BRIEN: One is, your Honor.

THE COURT: How about Wednesday at 4:30?

MR. WALES: Very good.

THE COURT: The 22nd.

MS. O'BRIEN: Yes.

THE COURT: I am not going much beyond 6:00 o'clock. If it goes beyond 6:00 we will have to adjourn it to another day. 4:30 on the 22nd.

Now, he hasn't been arraigned on this matter, maybe we will have Mr. LUcchetti over at 4:30 on Wednesday.

MS. O'BRIEN: I had requested that he be brought over today.

THE COURT: It's not necessary on an argument

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for bail. But a hearing on bail where there are going to be accusations of serious offenses, he certainly should be here.

At that time we should also put it on for pleading. All right.

MR. WALLES: Fine.

MS. O'BRIEN: Thank you, your Honor.

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b;pc 1/1pm THE CLERK: Criminal hearing, United STates of America versus Charles Lucchetti.

MR. WALES: Yes, your Honor.

MS. O'BRIEN: We have two detectives from Suffolk County. So it might go a while.

THE COURT: Do you agree that danger to the community is not a factor before a conviction?

It may be a reason for remanding after conviction; isn't that true?

MS. O'BRIEN: Yes, your Honor.

MR. WALES: I am sorry. I didn't hear the answer.

THE COURT: Yes.

MR. WALES: She said, yes. She concedes.

THE COURT: There is only one basis for remanding and that is, in m opinion -- and I have to look it up because I remanded on this ground before the Bail Reform Act.

And that is, if the defendant poses a threat to the Government witnesses. In other words, is trying to destroy the Government's evidence. I have remanded on that basis and I have been affirmed. But that was before the Bail Reform Act.

MS. O'BRIEN: Yes.

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	MS. O'BRIEN: Fine.				
2	MR. WALES: Very good.				
3	THE COURT: All right, are you ready for the				
4	hearing?				
5	MS. O'BRIEN: Yes.				
6	THE COURT: The bail hearing.				
7					
8	MS. O'BRIEN: Yes, your Honor. My first				
9	witness is detective John Christie.				
10	JOHN CHRISTIE, called as a witness,				
11	being duly sworn by the Clerk of the Court, testified				
12	as follows:				
13	DIRECT EXAMINATION				
	BY MS. O'BRIEN:				
14	Q Your occupation, sir?				
15	A I am a detective with the Suffolk County				
16	Police.				
17	Q How long have you been so employed?				
18					
19	and a mail years.				
20	At one time in the course of your employment,				
21	did you have occasion to meet an individual known as				
22	Robert Chaffin?				
23	A Yes, I did.				
24	Q Under what circumstances did you meet Mr.				
	Chaffin?				
25	A As I was doing an investigation on Charles				

1 Christie-direct Lucchetti, information came to me that a Robert Chaffin, 2 who was an associate of Charles Lucchetti --3 MR. WALES: I move to strike that out. 4 THE COURT: Overruled. This is a hearing 5 and not a trial, and I am not bound by any strict 6 rules of evidence. 7 THE WITNESS: That he may have information 8 that would help me in my investigation. 9 And sometime early in January --10 What year? 11 1971. 12 Thank you. 13 I went to his residence on Candlewood Drive 14 in Brentwood and started to speak with him. 15 MR. WALES: Started to what? I am sorry. 16 THE WITNESS: Speak with him. 17 Was the purpose of your visit to obtain 18 information from him about Mr. Lucchetti? 19 Yes. 20 Did he, at that time, give you any information 21 about Mr. Lucchetti? 22

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At that time he -- he eventually invited me into his house and he stated to me, "I know what you want. You want Robert -- You want Charles Lucchetti. I

1	Christie-direct 11			
2	can give him to you, but I won't."			
3	Q Did he make any further statement at that			
4	time?			
5	A No, none at that time.			
6	And did you periodically visit Mr. Chaffin			
7	again with the same purpose?			
8	A Almost continuously. Almost every day.			
9	. Q And did there come an occasion when Mr. Chaffi			
10	had told you or informed you that he would cooperate with			
11	you , your office?			
12	A Yes, there was.			
13	2 Could you please tell us the the first			
14	date that he agreed to cooperate with your office?			
15	A As I remember, this was a Wednesday, January			
16	3rd, I think.			
17	Q January?			
18	A February 3rd, 1971, when he finally admitted			
19	that he was involved with bank involved with bank			
20	robberies with Charles Lucchetti.			
21	Q Did he tell you how many bank robberies he			
22	was involved in?			
23	A At that tire, 3.			
24	Q Did he give you any further information			
25	concerning these bank robberies?			

However, he did agree that the following

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No.

Priday to Monday, the following Monday.

THE COURT: Did he ever come in?

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THE WITNESS: No, sir. It was changed to the -- which would have been -- changed to the 8th, the following Monday.

THE COURT: I see.

Q Was the change due to Mr. Fierro? Was that Mr. Fierro's decision?

A Yes.

Q That he should come in the following Monday?

A Yes.

Q And the preceding Sunday before this Monday, you received information that he had been killed; is that correct?

A Yes, sir. Yes, ma'am. I am sorry.

Q Okay.

Now, prior to his death, did Mr. Chaffin ever tell you that he was afraid of anyone because of --- because of his cooperation?

A Almost continuously while I was meeting with him. He would state to me in substance that he hoped no one saw me come to his house. Or he would look out of the door and check the streets and -- and, of course, at that time he stated that if Lucchetti knew that he was speaking to me or the police department, in his words, would put him

1		Christie-direct	16	
2	Q	All right.		
3		Did you know who he was refe	erring to as Jersey	
4	John?			
5	Α	I knew Jersey John, but I d	idn't know much	
6	about him. He did speak about Jersey John quite frequently.			
7	I didn't know his last name.			
8	Q	Did you subsequently find o	ut what his last	
9	name was?			
10	Α	After the murder, we did.		
11	Q	What was his name?	4	
12	A	John Greenemier.		
13		THE COURT: How do you spel	that?	
14		THE WITNESS: G-r-e-e-n		
15		MS. O'BRIEN: G-r-e-e-n-e-	m-e-i-r, your	
16	Honor.			
17		THE COURT: Johnny?		
18		THE WITNESS: John is the	first name.	
19	Q	Can you tell us roughly on	how many occasions	
20	he made statements to that effect?			
21	A	About Charles Lucchetti ki	lling him or	
22	putting him in the street?			
23	Q	Yes.		
24		I met with him for almost	two months. I would	

say 15 times or more. Making reference to Jersey John, at

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Christie-direct

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least three times.

Q And on -- prior to his death, how many days before his death did he make that statement to you?

A He made the statement -- I stopped by that Friday before his death. And it was just sundown. It was dark. And he was extremely nervous at this point. More nervous than he was ever -- had ever been. And he let main the house. He even walked out to the street, looked up and down.

I said, "What's wrong?"

He said, "Charlie will kill me if he knows
I'm speaking to you."

He said, "You have got to stop coming over here to see me. We'll make other arrangements.

He didn't want me to come to his home any more.

All right.

THE COURT: Was he married?

THE WITNESS: He was married. He was raising two children by himself. He was separated from his wife.

THE COURT: Where did he live? Was it a -THE WITNESS: He lived in a one family house
in Brentwood, New York.

Christie-direct

THE COURT: Is that where he was killed?

THE WITNESS: Yes.

THE COURT: In the house?

THE WITNESS: In the house.

MS. O'BRIEN: The circumstances, your Honor, the next witness will testify to.

Q All right.

Now, aside from these comments, or aside from his statements as to whoever he feared, did he ever make any statement to you concerning Mr. Lucchetti borrowing one of his trucks?

A Yes.

Q On what date? Could you tell us?

2nd. He advised me that Charlie Lucchetti wanted to borrow his truck. Chaffin, at that time, had a four wheel drive Dodge power wagon with a snow plow. He said that Lucchetti wanted him to take the plow off it and fill the truck up with gas; that if the police wanted to know what happened to the truck, just tell the police that the truck must have been stolen.

what Lucchetti wanted the truck for. And he remarked that he thought he was going to burglarize an entire store in

Central Islip.

I asked him which one.

He said he didn't know. And he wasn't sure of that anyway. This was his opinion.

Then he went on to say that Charlie Lucchetti had made arrangements to go to California for the weekend, the coming weekend.

and he didn't know too much about it. But I remember he was a little upset that Charlie wouldn't take him with him.

He was taking all his other friends, but he wouldn't take him to California with him.

Q Was there any -- Did he, on any other day, discuss this incident of the truck?

A Yes. I saw him again on the 4th. And he said he, Charlie Lucchetti, had telephoned him and he wanted the truck ready at 5 o'clock, that he was going to use the truck.

I asked him if he learned anything more about why he was going to use the truck, what he was going to do with it.

He said he didn't know.

So at that time I got members of the D.A.'s squad together and we started to surveil the truck,

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with Charlie Lucchetti. And at one point we lost him. In the process of losing him we went looking for him, and Charlie Lucchetti passed me. He saw me and he smiled at me.

Did it seem to you that Mr. Lucchetti was looking for you or looking out for a police car? MR. WALES: I object to that, your Honor.

Well, what was Mr. Lucchetti's action at the time, at the time he observed your car?

Very relaxed. He just looked at me and smiled and let me know that I had it.

What do you mean by "had it."

Well, the surveillance was over.

MR. WALES: This is so speculative --

MS. O'BRIEN: Your Honor --

THE COURT: It is a hearing, Mr. Wales.

MR. WALES: There are some limits.

THE COURT: Yes, it certainly has. This is a police officer who's had experience. And if someone smiles at him in a knowing way, I will allow him to interpret what he believes it meant. Not necessarily the reaction of Mr. Lucchetti, but at least what Mr. Christie believes.

You said --Q

Christie-direct

THE COURT: When you said you surveiled the truck and Mr. Lucchetti, did you ever see Mr. Lucchetti in that truck?

THE WITNESS: Yes.

THE COURT: With the snowplow off?

THE WITNESS: Yes. The snowplow was off, as I remember. I really can't determine.

Q This was February 4th; is that correct? The date of this surveillance?

A Yes, ma'am.

When you say that he smiled at you as if to indicate that you had had it, what do you mean by that, sir?

A Well, there was no sense following any more, because he knew I was there. That's what I mean by that.

MS. O'BRIEN: All right, I have no further

questions of this witness.

THE COURT: Mr. Wales?

CROSS EXAMINATION

BY MR. WALES:

Q Detective, when Chaffin told you he would cooperate with you, you offered to do something for him, didn't you?

A Yes, sir.

Q You said you would help him out with his

information concerning the death of one, Robert Chaffin.

Did you know Mr. Chaffin?

A I met him a few times.

Q Did you ever travel to Las Vegas with Mr. Lucchetti in February of 1971?

A Yes.

Q In that, did you stay with Mr. Lucchetti in the same hotel?

A Yes.

At that time when you were on vacation with Mr. Lucchetti, did you ever receive word from Mr. Lucchetti that he had received a telephone call from someone in New York?

A Well, there was a call. I answered it and it was for Mr. Lucchetti and he talked to the party and he asked us -- me -- one of his coupins, we went downstairs, and continued playing dice while he was talking to the party.

Q Did there come a time later, when you had a conversation with Mr. Lucchetti about that telephone call?

A No, we didn't have no discussion about it, because it didn't concern me.

Q Did Mr. Lucchetti ever inform you as to the substance of that call?

A No, all he just said is "only the canary knows

Yes.

2 Could you blease describe the manner in which

In the playroom of his home there was a canary lying alongsic of his head.

of this nurder, did you have occasion to talk to informants concerning the incident of the death?

A Yes, ma'am.

2 Could you please tell us what information you received --

MR. WALES: Before we get to that, could we have a little more specifics who he talked to or some description of the person? Even if not by name, so it can be a basis?

THE COURT: Who are these informants, would they be people who would know the events of which they told you?

THE WITNESS: Yes, sir, they were associates of Charles Lucche(ti.

THE COURT: Is there any reason that you can't reveal their identity?

MISS O'Brien: Your Honor, we will reveal it to the Court.

Mansel-direct

THE COURT: No.

Q Was one of the people that you spoke to Mr. Dempsey?

A Yes, ma'am.

Q Could you please tell us what Mr. Dempsey told you at that time?

A Well, it was sometime in April of 1971,

Jack Dempsey was picked up by the six precinct officers,
out in Coram.

I received a phone call that he was in their custody for a different incident, and Detective Halverson and myself, were called to the Sixth Precinct.

We talked to Mr. Dempsey and asked him if he had any information as to the murder of Chaffin.

Q What did Mr. Dempsey tell you at that time?

A He told us he was in Las Vegas, Nevada at the time that Mr. Chaffin was killed.

Q What did Mr. Dempsey inform you on that occasion?

A He said he was in Las Vegas with Charlie Lucchetti at the time that Chaffin was killed, and one of the days that they were in Las Vegas, that Mr. Lucchetti received a phone call — that he received a phone call, gave it, the phone to Mr. Lucchetti.

Mansel-direct

Mr. Lucchetti said something about, "Only the canary and he," -- Mr. Lucchetti -- "knows."

Aside from Mr. Dempsey, did you speak to an individual concerning the death of Mr. Chaffin?

A Yes, ma'am, I did.

THE COURT: Was the phone call made at or about the time of Mr. Chaffin's --

THE WITNESS: It was made either the day after as I recall.

MS. O'BRIEN: We will get into the records of the Sands Hotel.

2 Speaking about another informant, did you have a conversation with another informant concerning the death of Mr. Chaffin?

A Yes, ma'am, I did.

Q Was this other informant an associate of Mr. Lucchetti's?

A Yes, he was.

Q What did that informant tell you?

and myself that he was told by hr. Lucchetti to have an alibi for the night of the 6th and the morning of the 7th, to make sure he had an alibi for that night. He was also

told by Mr. Lucchetti that the murder weapon in the Chaffin killing was in Lucchetti's house in the playroom behind the wall.

Q Was there anything further, to your information, from any other informants?

A Well, not am informant, but the chief of detectives, Patrick Mellon, on May the 13th, after another incident, was told by Lucchetti -- this I'm getting from the Chief of Detectives -- he said Lucchetti would give him the murder, the Chaffin murder, if he could get himself a deal on the bank robbery.

Q Was there any other discussion between them?

A The chief told Lucchetti if he can give him the gun, he would consider it. Other than that, he don't want to even talk about it. That was the conversation.

Did Lucchetti reply to that?

or he said he wouldn't give him any.

Did you obtain the records from the Sands
Hotel in Las VEgas?

A I, myself, did not. Lieutenant Kasan (ph) of the Homicide Squad phoned the Sheriff's Department out there, to verify if, in fact, Mr. Lucchetti was at the Sands Hotel the day of the 6th and the 7th. This was

Mansel-cross

MR. WALES: One moment, please, your Honor.

I have no further questions.

THE COURT: Do you have anything further?

MS. O'BRIEN: Just one, your Honor.

REDIRECT EXAMINATION

BY MS. O'BRIEN:

Q Detective, you had informed us that you did not get a search warrant for Mr. Lucchetti's house for the gun?

A That's correct.

And that -- it was not the reason for your not getting the warrant was not due to the lack of reliability of the informant: is that correct?

A That's correct.

Q Will you please tell us why you did not get a search warrant?

A Well, in talking with Detective Christie, who

-- who had been speaking with Chaffin before he was killed,

the thought was that possibly Charlie Lucchetti asked

Chaffin to borrow his truck to see if, in fact, the District

Attorney would then tail Charlie Lucchetti.

informant in reference to the -- that Lucchetti told him that the gun was in his basement, we also thought that

Mansel-redirect

and that if we showed up with a warrant searching for the gun, that that would give Charlie Lucchetti a good idea of who was speaking to the police.

Because we don't know how many people Charlie Lucchetti told that the gun was in his cellar.

In other words, Mr. Lucchetti had made you feel that Mr. Lucchetti had made that statement so he could ascertain the identity of those that were cooperating with the police?

A That was our thought on the matter.

And that it was, -- it was your opinion that the -- the opinion of your fellow officers, that the incident with the truck was an attempt by Mr. Lucchetti to see if Mr. Chaffin was cooperating with the police?

A Yes, ma'am.

MS. O'BRIEM: I have no further questions.

MR. WALES: No further questions.

THE COURT: You may step down.

Thank you.

(Witness excused.)

witnesses.

MR. WALES: I have one witness.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

75 CR 25 (71 CR 849)

-against-

Memorandum of Decision and Order

CHARLES LUCCHETTI,

Defendant.

January 30, 1975

This is a motion for release on bail pending trial pursuant to the Bail Reform Act of 1966 (18 U.S.C. §3146).

Defendant was convicted of armed bank robbery and sentenced to a term of imprisonment of twenty years (71 CR 849). The government's case rested on the accomplice testimony of Jack Dempsey and David Williams. In a memorandum of decision and order dated December 16, 1974, this court vacated the verdict, and judgment and commitment because of the failure of the government to reveal negotiations with Dempsey for Dempsey's testimony. The court fixed January 20, 1975 as a date for re-trial and \$75,000 surety company bond as the bail conditions for release pending

trial.

On January 9, 1975, defendant offered to meet the bail conditions. At the same time, a grand jury returned an indictment consisting of six counts charging three additional armed bank robberies. The indictment is based on testimony given before another grand jury in which he freely confessed to the crimes charged. The court thereupon increased the bail to \$200,000 surety company bond. Defendant and designated sureties offered to execute a personal appearance bond in the amount of \$200,000, and post the same security as previously required under indictment number 75 CR 25.

The court held a hearing on the government's charge that defendant's release presents a danger to the community and a risk to the government's witnesses. For the purposes of the bail application, the court finds:

Prior to February 2, 1971, Robert Chaffin, defendant's accomplice in the three bank robberies set forth in indictment number 75 CR 25, decided to cooperate with the

The court subsequently modified the bail conditions by requiring a cash deposit of \$7,500 and equities in homes owned by defendant and relatives.

Suffolk County Police Department in solving a number of crimes committed in Suffolk County. Chaffin was scheduled to appear before a Suffolk County grand jury on February 5, 1971. His appearance was adjourned to Monday, February 8, 1971. Defendant suspected that Chaffin was cooperating. Chaffin was murdered by John Greenmeier ("Jersey John") on Sunday, February 7, 1971. The murder was planned and 12 ordered by defendant.

to the community and is a threat to the safety of Dempsey and Williams. However, the express language of 18 U.S.C. §§3146 and 3148 makes it clear that danger to the community or to government witnesses is a factor in a bail application only after conviction. The plain reading of both these sections makes it clear that every defendant in a criminal case, including those found to pose a danger to the community and government witnesses, is entitled to release pending trial. The court in United States v. Leathers,

Defendant arranged an alibi defense by registering at a Las Vegas hotel on February 6. Soon after the murder, he received a telephone call at his hotel from New York. He told Dempsey (who accompanied him to Las Vegas) "only the canary knows." A dead canary was found next to Chaffin's body.

412 F.2d 169, 170 (D.C. Cir. 1969), expressed the same concern that this court has in releasing a defendant presenting the risks found in this case. The legislative history outlined in <u>Allen v. United States</u>, 386 F.2d 634, 640 (D.C. Cir. 1967), makes it crystal clear that:

[t]he bill is not intended to deal with the problem of preventive detention of an accused because of the possibility that his liberty might endanger the public welfare, either because of the accused's predisposition to commit further acts of violence during the pretrial period, or because of the likelihood that his freedom might result in the intimidation of witnesses or the destruction of evidence. S.Rep. No. 750, 89th Cong. 1st Sess. 5 (1965).

In order to assure the defendant's appearance at court, the court imposes the following conditions, in addition to the monetary conditions hereinabove set forth:

- 1. The bail limits shall be the Town of Islip,
 County of Suffolk, New York, and to and from the office of
 H. Elliott Wales, located at 742 Third Avenue, New York,
 New York 10017;
- 2. He shall reside at 66 West Pine Street, Islip, New York.
- 3. He shall not associate with Jack Dempsey or David Williams, nor shall he communicate with said Jack Dempsey or David Williams by letter, telephone or through

any third parties, except that his attorney, H. Elliott
Wales shall have the right to communicate with the said
Jack Dempsey or David Williams for the purpose of preparing
the case for trial.

Defendant shall be released on bail covering both indictments upon the execution of a personal bond by the defendant Charles Lucchetti in the amount of \$200,000, and the execution of a surety agreement by the following persons and pledging the equities in the following properties:

> Patricia Vidal 24 Valley Stream Street Islip Terrace, New York

> Rose M. Santoro 48 Richards Avenue Islip Terrace, New York

Barbara Lucchetti 66 West Pine Street Islip, New York

Albert and Laura Santoro 13 Emerald Drive Vernon, New Jersey

The defendant shall also deposit the sum of \$7,500 and it is

SO ORDERED.

U. S. D. J.

UNITED STATES DISTRICT COURT

Eastern District of New York

United States of America v. CHARLES LUCCHETTI Defendant	Magistrate's Commissioner's Docket No. 75 M Case No. 172 ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE
Personal Recognizance Unsecured Bond () that he will execute \$200,000.00 dollars (\$ [NOTE: The judicial office he determines that such a release he determines that such as released.	D that the above-named defendant be released, provided appear at all scheduled hearings as required. e a bond binding himself to pay the United States the sum of) in the event that he fails to appear as required. er is required to release the defendant by one of the above methods unless use will not reasonably assure the appearance of the defendant as required ion is made, the judicial officer shall, either in lieu of or in addition to the one of the first condition of release listed below which will reasonably assure for trial. If no single condition gives that assurance, any combination of the condition of release listed below which will reasonably assured for trial.

conditions may be used.]

Part II .- Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant, it is hereby FURTHER ORDERED that the defendant be released on the condition (s) checked below:

Third	Party
Custo	dy

Restrictions on Travel, Association or Place of Abode () (2) The defendant will comply with each of the following conditions: -

1. Defendant will not leave Town of Islip except to vigit his lawyer at 712 Third Avenue, New York City.
2. Defendant will reside at 56 West Pine Street, Islip, I.

3. Defendant will not associate with Jack Dempsey or David Williams or communicatewith them by letter, telephone or third parties but his lawyer H. Elliott Wells may confer to

10% Deposit

them in preparing for trial.

() (3) The defendant will execute a bond binding himself to pay to the court states the sum of \$200,000 dollars (\$) and will deposit in the registry the court the sum of \$7500 dollars (\$), in the sum of \$600 dollars (\$), in the sum of \$600 dollars (\$) and will deposit in the registry the court than 1000 dollars (\$), in the sum of \$600 dollars (\$), in the sum of \$600 dollars (\$), in the sum of \$600 dollars (\$) and will deposit in the registry than 1000 dollars (\$).

of the amount of the bond, such deposit to be returned upon the court's determination that the defendant has performed the conditions of his release.

Cash or Surety Bond (\$) (4) The defendant will execute a bond in the amount of 200,000 dollars (\$) either secured by the undertakings of sufficient solvent sureties or by the deposit of an equal amount of cash or other security in lieu thereof.

C 2

Part-time Release	() (5) (a) The defendant will be released from
Other Conditions	() (5) (b) The defendant agrees that he will comply with the following other conditions of release:
	[NOTE: A defendant for whom conditions of release are imposed and who after twenty-four hours from the time of the release hearing continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them.]
Appearance	Part III.—Appearance and Penalties It is hereby FURTHER ORDERED that the defendant shall appear next at
	and at such other places and times as the United States Commissioner or Court may order or direct.
Penalties	If the defendant violates any condition of his release, a warrant for his arrest will issue immediately. After arrest, the terms and conditions of any further release will be redetermined. If the defendant fails to appear before any court or judicial officer as required, as additional criminal case may be instituted against him. If the failure to appear is in connection with a charge of felony, or while awaiting sentence, or pending appeal or certiorar after conviction, the penalty is a fine of not more than \$5,000 or imprisonment for not more than five years, or both; if he fails to appear after being released on a misdemeanor charge the penalty is a fine of not more than the maximum provided for the misdemeanor or imprisonment for not more than one year, or both.

Part IV .- Acknowledgment by Defendant

Acknowledgment

T CHARLES LUCCHETTI

, understand the methods and conditions of my release

Defendant

which have been checked above and the penalties and forfeitures applicable in the event I violate any condition or fail to appear as required.

I agree to comply fully with each of the obligations imposed on my release and to notify the Commissioner or Court promptly in the event I change the address indicated below.

Defendant

lalin

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City and State

Tel. No.

RELEASE ORDERED:

Date: January 31, 1975

United States Commission Or United States District J

☆ U.S. GOVERNMENT PRINTING OFFICE: 1965-O-236-737

UNITED STATES OF AMERICA SE

before me personally came CHARLES CCHETTI defendant principal and the undersigned sureties as surety, and jointly and severally acknowledge themselves to owe the United States of America the sum of TWO HUNDRED THOUSAND (\$200,000) dollars to be levied on their goods and chattels, lands and tenements if default be made in any of the conditions following, to wit:

That the said defendant principal having been charged with the following offense, to wit: that he did on or about the 21st day of December 19 7; within the said District, violate Section 2113(a)(d) of T. 18 USC as more fully set forth in the INDICTMENT - ENFORMATION:

NOW, THE CONDITION OF THIS RECOGNIZANCE is such that if the said defendant principal shall personally appear before the District Court of the United States for the Eastern District of New York on the first day of the term commencing on the _____ day of _____ 19 or prior thereto, when notified by mail by the United States Attorney, addressed to the last known Post Office address given by him, and from term to term and time to time thereafter to which the case may be continued, then and there to answer said charge, and then and there render himself amenable to the order and processes of the District Court and not depart from said District without leave* and if convicted, shall appear for judgment and render himself in execution thereof upon such day as the District Court may order; then this recognizance shall be void otherwise to remain in full force and virtue. We do hereby authorize the filing of a lien against the following properties: . Patricia Vidal, oh Valley Stream Street, Islip Terrace, New York; . Rose M. Santoro, 48 Richards Avenue, Islip Terrace, New York; B. Barbara Lucchetti, 66 West Pine Street, Islip, New York; 1. Albert and Laura Santoro, 13 Emerald Drive, Vernon, New Jersey. Seventy-Five Hundred (\$7500) Cash - Receipt No. 59/158 deposited with Court Clerk as security. Pail subject to conditions of release accompanying this order. Taken and acknowledged before me this 31st day of January

Bail Bond Executed By the Appellants on January 31, 1975

1	
2	UNITED STATES DISTRICT COURT
3	EASTERN DISTRICT OF NEW YORK
4	~~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~
5	UNITED STATES OF AMERICA :
6	-against- : 71-CR-849 75-CR-25
7	CHARLES LUCCHETTI,
8	Defendant. :
9	the same and the same and the same and the same
10	United States Courthouse Brooklyn, New York
11	March 12, 1975
12	4:00 o'clock P.M.
13	
14	
15	Before:
16	HONORABLE JACOB MISHLER, Chief U.S.D.J.
17	
18	
19	BAIL HEARING
20	
21	
22	
23	JOSEPH BARBELLA OFFICIAL COURT REPORTER
24	

Appearances:

DAVID G. TRAGER, ESQ. United States Attorney for the Eastern District of New York

BY: JOAN O'BRIEN
Assistant U.S. Attorney

7 8

 THE CLERK: United States of America versus Charles Lucchetti.

THE COURT: All right, Miss O'Brien.

this afternoon to request a declaration of the forfeiture of the bail bond under the defendant Charles
Lucchetti, specifically because of the fact that we
have received information that he has participated in
an armed robbery of a bank in New Jersey and that he
himself was present in New Jersey and was as a
switch-car driver during the course of that robbery.

THE COURT: First, allow me to say, Mr. Wales called and I told him I was holding a bail forfeiture here at 4 o'clock and he told me he was busy. He called me about noontime. I told him that I would not adjourn the bail hearing because when bail was fixed -- and was fixed in this amount with four sureties, I wanted to make sure the surety understood that if there was any violation of the terms and conditions of the bail in this case I wouldn't head to forfeit bail. I just want to be satisfied that he did violate the conditions of bail.

I don't know how you know that he committed
the armed bank robbery in New Jersey, but --

MISS O'BRIEN: Your Honor, I would be willing

1	to have testify in Court
2	THE COURT: All right, swear in the agent.
3	MISS O'BRIEN: I will swear in the agent.
4	THE COURT: I will take it.
5	Are any of the sureties here?
6	A VOICE: Yes.
7	THE COURT: Santoro. Barbara Lucchetti.
8	Albert Santoro.
9	A VOICE: Albert.
10	THE COURT: You are Albert Santoro. Who is
11	the lady that was sitting with you?
12	MR. SANTORO: My wife, Mrs. Santoro.
13	THE COURT: Did Barbara Lucchetti call you to
14	tell you that there was a hearing on?
15	MR. SANTORO: No, your Honor. Mr. Wales did.
16	THE COURT: Mr. Wales called.
17	MR. SANTORO: Yes, sir.
18	THE COURT: All right.
19	LAWRENCE T. SWEENEY, called as a witness,
20	being duly sworn by the Clerk of the Court,
21	testified as follows:
22	THE COURT: You can sit closer, Mr. Santoro,
23	because you are involved. Your house may be for-
24	feited.

MR. SANTORO: Thank you.

Sweeney-direct

THE WITNESS: Please excuse my appearance, your Honor.

THE COURT: That's all right. Those are your working clothes, I know.

THE WITNESS: Yes.

THE COURT: These happen to be mine, you see.

DIRECT EXAMINATION

BY MISS O'BRIEN:

- Q will you please state your occupation?
- A Special Agent, Federal Bureau of Investigation.
- Q Were you not present in my office on March 10,

13 1974?

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- A Yes, I was.
- Q Was the purpose of your appearance at my office for the purpose of obtaining a warrant for the arrest of Charles Lucchetti?
 - A That's correct.
- Q And on that occasion did you interview in my presence two individuals concerning that bank robbery?
 - A Yes, we did.
 - Q Who did you interview?
 - A Walter Miller and Robert Rinaldo.
 - Q What was the status of these two individuals?
 - A They were both in State custody of the Bergen

Do you know the crime for which they have been

arrested?

County authorities.

A They have been charged with armed bank robbery of the People's Bank of South Bergen in New Jersey on February 25, 1975.

Q Did they agree to provide the Government with a statement as to their participation in this bank robbery?

A Yes, they did.

Q Did they also tell you as to -- any information as to the participation of one Charles Lucchetti in that bank robbery?

A Yes, they did.

Q What information did they provide to you?

A In essence, both individuals indicated that they had and Lucchetti had cased this particular bank prior to the robbery, approximately a day prior to the robbery, on February 25th. On the morning of February 25th, they met with Charles Lucchetti in Islip, New York, at approximately 6 a.m. The borrowed an automobile from an associate of Lucchetti by the name of Matty Santoro. Lucchetti was carrying a golf bag at the time and in the golf bag they found that there was a -- not a sawed-off, but a regulation-size shot gun.

Lucchetti also furnished both individuals with

a ski-mask which Rinaldo had purchased some time
earlier at Lucchetti's request in Islip, Long Island.
They drove to New Jersey, and Rinaldo stole an automobile in the vicinity of Roosevelt Park in New Jersey
at Mr. Lucchetti's direction.

Q Was Lucchetti present at the time the automobile was stolen?

A Yes, he was.

THE COURT: How did this individual identify Charles Lucchetti?

THE WITNESS: Both these individuals are related by marriage to Charles Lucchetti and know him to be the individual who is presently free on bond here in the Eastern District of New York.

Q Do you know the relationship between these two individuals and Mr. Lucchetti?

A Yes. Miller is Mr. Lucchetti's nephew, I believe. And Rinaldo I believe is an in-law of some sort. Brother-in-law I believe.

Q What else? What else did they state after they told you about this -- the stealing of the car?

A After stealing the automobile they drove in the 2 cars to the vicinity of the bank. Lucchetti made plans for the two individuals to go into the bank and actually hold up the bank. And Lucchetti advised he would meet with them some

distance from the bank. They wor d abandon the get-away vehicle and switch to the automobile which Lucchetti was driving, which he had borrowed from Marty Santoro.

The plan went on as Lucchetti directed, in that the two men went into the bank with the shotgun and announced a holdup and obtained over \$8,000. As they left the bank, however, they were seen by witnesses and were pursued by local police officers. At one point during the pursuit they had met up with Lucchetti, and Lucchetti's car was actually between the police officers and the get-away vehicle. They lost Lucchetti, however. Lucchetti went in one direction and they went in the other direction. And the police officers continued after both individuals until they were actually apprehended after the police officers fired some shots in a swampy area some distance from the bank.

They were thereafter -- the shotgun used in the robbery was recovered and was determined to have been reported stolen in a burglary by Barbara Lucchetti, Lucchetti's wife, from their home.

- Q What date did this burglary take place?
- A The burglary -- we found the exact date. The burglary alleged took place on January 17, 1975.
- Q When did the -- when did they report this burglary?
 - A On January 17th. And the weapon that Mrs.

Lucchetti reported as stolen was found in the possession of the two bank robbers after the bank robbery.

Q Did you thereafter obtain an arrest warrant for the conspiracy to commit this bank robbery against Mr. Lucchetti?

A Yes, we did.

Q Did you attempt to arrest Mr. Lucchetti on that particular warrant this morning?

A Yes, we did this morning.

O And what occurred?

A Agents of the Babylon Resident Agency of the F.B.I. and officers of the Suffolk County Police Department went to Mr. Lucchetti's home this morning at approximately 6:30 a.m. We found at the home Mrs. Barbara Lucchetti and I believe her sister, Mrs. Elaine Sweiter. Both ladies told us at the time that they had not seen Charles Lucchetti since the day before and neither one of them had any ideas as to his present whereabouts.

Q Did you also interview Matty Santoro?

A Yes.

What did he state?

A Mr. Santoro confirmed the fact that on the day of the bank robbery he had in fact actually lent Robert Rinaldo and Charles Lucchetti his automobile. He also stated that some time after the robbery Lucchetti had called him and

said that Walter Miller and Rinaldo had been arrested for bank robbery. He also indicated that last night Lucchetti had called him at home and had told him that in some fashion unknown to him -- unknown to Santoro, Lucchetti had determined that there was a warrant outstanding for his arrest and that the two quote kids had apparently ratted on him.

Mr. Santoro inquired as to Lucchetti's whereabouts at that time and Lucchetti would not tell him where he was.

Q Have you received any other information from a confidential informant?

A Yes, we have.

Q Today? And what is the substance of that information that you received?

A We found out that some time this morning

Lucchetti had received a communication that F.B.I. agents had

hit his house, and upon receiving this had indicated that it

was hot and had told -- had indicated that he was leaving

the Long Island area and left in a 1965 white Chevrolet

belonging to a friend of his.

MISS O'BRIEN: Your Honor, I have additional information beyond what this witness knows.

THE COURT: You may step down.

THE WITNESS: Thank you, your Honor.

(Witness excused.)

take my information under oath or -- a confidential informant called me from a prison this afternoon and informed me that he had received word from other people in the prison that Mr. Lucchetti had also taken off and that he decided to leave the area.

This is a different confidential informant than the one previously referred to.

THE COURT: Among the conditions of bail were that the defendant would not leave the town of Islip except to visit his lawyer at 742 3rd Avenue, New York City, and that he would reside at 66 West Pine Street, Islip, New York. I declare bail forfeited. That means that the Government can seize all of the houses.

I will remit bail if Charles Lucchetti
surrenders at or before 4 p.m. tomorrow. That's the
13th.

In other words, Mr. Santoro, you understand that if you bring Mr. Lucchetti in or if he comes in and surrenders to the marshal at or before 4 o'clock — not one minute after 4 — I will remit the bail. But if he is not surrendered by that time, I will direct the Government to proceed on the foreclosure of these houses.

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MISS O'BRIEN: Thank you.

THE COURT: Without delay.

MISS O'BRIEN: Yes.

THE COURT: All right.

MR. SANTORO: Thank you, your Honor.

1	
2	UNITED STATES DISTRICT COURT
3	EASTERN DISTRICT OF NEW YORK
4	x
5	UNITED STATES OF AMERICA, :
6	-against- : 71-CR-849
7	CHARLES LUCCHETTI, :
8	Defendant. :
9	x
10	
11	United States Courthouse Brooklyn, New York
12	March 31, 1975
13	
14	Before:
15	HONORABLE JACOB MISHLER, Chief U.S.D.J.
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22	BURTON SULZER OFFICIAL COURT REPORTER
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24	

Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: JOAN O'BRIEN, ESQ.
Assistant U.S. Attorney

(No appearance for Defendant.)

THE CLERK: United States of America v. Charles
Lucchetti.

MS. O'BRIEN: Mr. Lucchetti as of the present time has not been apprehended. As far as the motion to execute on the property, I see Mr. and Mrs. Santoro and I see Mrs. Rose Santoro. They are here.

THE COURT: Did you get all those who are here on the record?

Will you please tell us who you are? Identify yourself.

MRS. R. SANTORO: Rose M. Santoro.

L. SANTORO: Laura Santoro.

MR. ALLIRT SANTORO: Albert Santoro.

THE COURT: Is there someone else here involved in Lucchetti?

MS. O'BRIEN: There are two other sureties --

THE COURT: Before we go on, were all the parties served?

MS. O'BRIEN: There are two remaining sureties, Mrs. Lucchetti herself and Mrs. Patricia Videl.

The marshals five times attempted to serve them.

No one has answered the door and yet there were cars

in the driveway. It would seem they are avoiding service, your Honor. I have here a copy of the marshal's attempted service.

THE COURT: I direct that the marshal leave the process with a person of suitable age, and if no one is home to just tack it to the door, or leave it in the mailbox.

Let it be adjourned as to Miss Videl and Mrs. Lucchetti.

The order to show cause as to them should be returnable -- when do you think the marshal could just leave it there?

MS. O'BRIEN: I think they probably could do it this afternoon or tonight.

THE COURT: Then let it be returnable on Wednesday, April 2nd at 10:00 o'clock.

MS. O'BRIEN: Your Honor, at this time I would move for a judgment on the --

THE COURT: Do you have anything to say about the judgment here?

MR. ALBERT SANTORO: Yes, your Honor. I am here today to see if I can get a postponement on this to permit us more time to seek out Charles Lucchetti. We have been trying, we are still trying to do that.

THE COURT: As I recall it, I gave him until

4:00

4:00 o'clock, a day that has long since passed, and

I said I would not adjourn it for two minutes after

that. I won't adjourn it any further.

You may submit a judgment against all the others, and, of course, the judgment must provide for publication of the sale. I will fix a date for the sale of the homes. You can hold it up until wednesday, because then the others will come in.

When somebody signs a surety bond on the bail bond, they know what they are doing. I explained it at great length. I explained the risk because I could almost predict what was going to happen, and you were willing to take the risk and you lost.

When Mr.Lucchetti comes around, ask him to pay you back for the loss of the value of the houses, if we ever find him. We will find him one day.

He will be before me.

MS. O'BRIEN: Should the order read that there should be publication of the sale?

THE COURT: Make it the Long Island Daily

Press. As I told Mr. Heinemann, I forget whether

it was three publications or six publications, but

the marshal should be able to sell those houses

within three weeks, something like that, three weeks

or six weeks, I forget what it is.

MS. O'BRIEN: Thank you, your Honor.

1	UNITED STATES DISTRICT COURT
2	EASTERN DISTRICT OF NEW YORK
3	X
4	UNITED STATES OF AMERICA :
5	-against- : 71 CR 849
6	CHARLES LUCCHETTI,
7	Defendant :
8	х
9	
10	United States Courthouse Brooklyn, New York
11	April 3, 1975
12	
13	Before:
14	HONORABLE JACOB MISHLER, Chief U.S.D.J.
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21	IRA RUBINSTEIN
22.	ACTING OFFICIAL COURT REPORTER
23	
24	

Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: JOAN O'BRIEN, ESQ.
Assistant United States Attorney

ELLIOT WALES, ESQ.
Attorney for Defendant

MR. WALES: Good afternoon, your Honor.

THE COURT: What is this application?

MR. WALES: I have no application. I am here because Miss O'Brien called me and told me that my presence was wanted here this morning.

THE COURT: I don't know whether the application of the Government --

MS. O'BRIEN: Your Honor, we would request he be remanded. He is at the present time remanded without bail.

THE COURT: Isn't there a warrant for the Jersey robbery?

MS. O'BRIEN: Yes, your Honor. Also, should have an arraignment on the conspiracy charge; that is, an outstanding arrest warrant against him on that charge; that is, an outstanding arrest warrant against him on that charge.

THE COURT: Conspiracy charge out of this court?

MS. O'BRIEN: Yes, your Honor. The conspiracy
took place in our district.

THE COURT: Oh, for the robbery of the New Jersey bank.

MS. O'BRIEN: Yes, your Honor. That is the outstanding arrest warrant.

THE COURT: Mr. Lucchetti was conspiring with

two others to commit that bank robbery, which actually took place in New Jersey? How much do you think bail ought to be?

MR. WALES: I am not --

THE COURT: \$200,000 bail has been forfeited.

MR. WALES: Your Honor, I have nothing to say
with regard to bail. I would not consider it appropriate to say anything. If Mr. Lucchetti wishes to
speak on his own behalf in that regard, fine. I really
I'm not going to impose on this court or give the --

THE COURT: Do you think half a million dollars would assure Mr. Lucchetti's appearance when he is scheduled to appear?

MS. O'BRIEN: I have no knowledge, your Honor.

THE COURT: Surety company bond?

MS. O'BRIEN: Your Honor, what is the purpose of setting a figure?

THE COURT: Well, the only purpose is in language of the Bail Reform Act, it appears that everyone prior to conviction is entitled to bail.

Mr. Lucchetti hasn't been convicted, yet.

I think he's a very high risk for all the reasons that I stated before. And for his very latest activity, I think Mr. Lucchetti is a confirmed bank robber. And that, given the opportunity, he would rob

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another bank. But I can't commit him for that and I must fix bail at such sum and on such conditions as will assure his appearance in court. I think a half million dollars surety company bond would insure that he be here. I can't imagine any surety company that would take a chance on Mr. Lucchetti without full and adequate security. And I really don't know what that is. He's already given everything up, his house, his in-law's house and I recall it, another relative's house.

So, on the 71 CR 849, I'll fix bail at \$500,000 and I think that's the highest I ever fixed for a bank robber or on the charge of bank robbery. Now, I'd like to fix a date for going to trial.

MR. WALES: What was the last thing your Honor said?

THE COURT: How about fixing a date for going to trial?

MR. WALES: Let me say this, your Honor. I have discussed with Miss O'Brien the situation yesterday and we wish to report to you this; I asked her for a period of time for which we can re-assess the situation in view of the latest development.

Mr. Lucchetti, of course, now has additional problems and he may have to re-assess his entire personal

predicament to decide how he wants to confront these problems.

THE COURT: How about Monday morning for trial,
April 7th at 10 o'clock?

MR. WALES: No, your Honor. I need a period of time. Two things; number one, I want to have a period of time in which to talk to Mr. Lucchetti and talk with Miss O'Brien and perhaps the United States Attorney in New Jersey to see what the full extent of all his problems are. How he expects to face up to these many, many problems and that's number one.

I need a little time for that and number two --

THE COURT: How much time?

MR. WALES: Well, let me say this to you, your Honor. Number two; that is, Mr. Lucchetti is going to re-assess his professional relationship with me in view of many things that have happened over the past few weeks. I don't think it's really necessary to go into that now, but he's going to have to discuss these things with me. As a matter of fact, your Honor, I am totally unprepared to go to trial for reasons I do not wish to spell out, but having to do with our relationship.

THE COURT: If you're talking about finances --

than finances.

THE COURT: Well, I think you're adequately advised before you accept and you understand I will not delay a trial because the defendant is not prepared or he doesn't get along with counsel. I will fix a date for trial and to trial he goes, ready or not.

United States against Maxey, do you know the case? Mr. Lucchetti apparently does know the case.

MR. WALES: Probably more versed in those matters than I am, your Honor.

Let me say this much, your Honor has discretion and I'm sure that the Maxey case is not binding upon your Honor. It doesn't your Honor to set trial for Monday.

THE COURT: Certainly is. It's my case and I know all about that.

MR. WALES: I understand. But your Honor has an area of discretion here.

THE COURT: I am exercising my area of discretion and I'm telling you you're going to trial.

MR. WALES: I would like your Honor to postpone this matter for one week, during which time I will be in constant communication with Mr. Lucchetti and Miss O'Brien with regard to all Mr. Lucchetti's

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problems and having to also, having to re-assess his relationship, his professional relationship with me, your Honor.

Now, in view of the fact that he is not on the street now he is not admitted to bail, but he's in obviously, he's going to be staying in for quite a while. I do not think there is any great prejudice to the Government, to the United States Attorney or society for a period of a short adjournment.

THE COURT: Aren't you aware of the requirements of the speedy trial act?

MR. WALES: Yes, I am.

If this is to be construed as a waiver because I'm asking for a one week period of time, I think the rules could --

THE COURT: One week, he was supposed to go to trial the 31st, Mr. Lucchetti wasn't around.

MR. WALES: I understand that. But today is
April 3, your Honor. If, on April 3rd I'm requesting
one week adjournment, I believe under the rules of
the Eastern District plan that time is charged to me
not to the Government. So I don't think we present
a six-month problem, your Honor.

I certainly state specifically right now in view of the fact it's my application, I cannot

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consider this time to be charged to the Government but solely to the defense.

MS. O'BRIEN: Your Honor, if I may state for the record this afternoon, I turned over all discovery material to Mr. Wales, about a hundred and two pages of statements that were made by Mr. Lucchetti to agents of the FBI. 302s, logs and the waiver forms.

THE COURT: You want to start the trial next Thursday; is that what you're saying?

MR. WALES: No, I'm not saying that. I am saying I'd like to report back to your Honor and may well be that one of several things could happen.

Either Mr. Lucchetti may have to face up to a plea with regard to all of his problems, which is something I'd have to discuss with him. Or he may have other counsel and that's something that we're discussing.

So, I do not wish -- I'd like this matter be set down say next week, Thursday or Friday, fine, to report at that time.

THE COURT: No. I am not going to listen to report.

MR. WALES: Your Honor, I can't prepare for a trial when I'm not sure I am not going to try a case.

THE COURT: All right.

MR. WALES: The responsibility in this matter -

THE COURT: I'll give you a final date; this is it, May 5th. Is that satisfactory?

MR. WALES: Certainly is.

THE COURT: Do you waive any claim of speedy trial violations?

MR. WALES: Yes, I do. I would ask it be from January 20 until today.

THE COURT: From January 20 to today, 1975.

That's all you're waiving, right? Then, you'll go to trial on Monday.

MR. WALES: Your Honor, I'm not prepared to go
to trial I will say this; I am because of the fact
that your Honor is forcing the issue, I must make this
statement for the record reluctantly. I do feel
certain personal things between myself and Mr. Lucchetti
that should not be stated for the record, but if your
Honor is forcing it for the record, then I have to
state that I have not talked to this man at all since
he's been released on bail with respect to this case.

THE COURT: His problem, right? (Continued on next page.)

MR. WALES: Yes. But it becomes my professional problem, if your Honor places it down for trial for May 5.

THE COURT: He wants an immediate trial; isn't that right, Mr. Lucchetti?

MR. WALES: May well be with counsel of his choice. He --

THE COURT: He shakes his head no, so it doesn't

THE DEFENDANT: All I said was, you asked me to waive my right from January 20, 1975, until today. I'll waive that time.

THE COURT: That's the time you were supposed to go to trial and then you said you needed --

THE DEFENDANT: I'm not going to waive my right to fair and speedy trial from June of '71 to January of '75.

THE COURT: When do you want a fair and speedy trial?

THE DEFENDANT: I couldn't get one.

THE COURT: Then, when would you want a speedy trial?

MR. WALES: Your Honor, I think if we take one thing at a time here we can resolve the problem. I'm going to ask Mr. Lucchetti to state for the record that

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he waives his right to a trial to the period from today until May 5, 1975. That this period of time will not be charged against the Government and it will be charged to the defendant in the computation pursuant to Eastern District's plan.

THE COURT: With the understanding that he goes to trial on May 5, 1975, whether he has counsel or not.

I'm squeezing it in to accommodate you. It's between United States against Austin and will follow that which is estimated to be a three week trial or four week trial. And United States against Matthews, which is scheduled to start on June 2nd, which is supposedly to be a six or eight week trial.

MR. WALES: May I ask the defendant to state for the record, your Honor, that he waived his right to a trial between today's date and May 5, 1975.

Will you so state that for the record, Mr. Lucchetti?

THE DEFENDANT: I do.

MR. WALES: O.K.

THE COURT: All right. Do you intend to present the other matter to the Grand Jury?

MS. O'BRIEN: Yes, your Honor.

THE COURT: In New Jersey?

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MS. O'BRIEN: The New Jersey case, yes.

THE COURT: Well, there is no sense having a probable cause hearing. He's in custody anyway.

Is that right, Mr. Wales?

MR. WALES: I can't disagree with your Hohor.

THE COURT: When do you intend to present it to the Grand Jury?

MS. O'BRIEN: Your Honor, we will do it within 10 days. I take it, there is a plea of not guilty on that.

THE COURT: There is nothing before me.

MS. O'BRIEN: No, your Honor. Not an indictment, but there is an outstanding arrest warrant and I take it the Magistrate has to have the initial arraignment on the arrest warrant, not the Court.

THE COURT: I can have it. He's before me.

MS. O'BRIEN: That's what I was going to --

THE COURT: Arraignment for the purpose of fixing bail to determine whether there should be a probable cause hearing and all the rights of the defendant are given him. And we're trying to determine whether he is an indigent, whether he has a right to counsel, and that's the very thing Mr. Wales wants to talk to him about.

I assume, if you represent him in the other case,

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you will continue to represent him in this case.

MR. WALES: No, that doesn't follow, your Honor.

THE COURT: Doesn't follow?

MR. WALES: No, it doesn't.

THE COURT: I don't have to go through giving him his constitutional rights. You know you have a right to counsel.

MR. WALES: I will represent --

THE COURT: For the future, on conspiracy to robber --

MR. WALES: My appearance today, I wish the record reflects, does not constitute an appearance forafuture proceeding with respect to this new matter.

MS. O'BRIEN: Is there a date for a probable cause hearing or is there --

THE COURT: I'll fix a date of probable cause hearing, if you wish. I'll make it the 11th, April 11th at 11 o'clock. If, in the meantime, the Grand Jury returns an indictment, there won't be a probable cause hearing.

MR. WALES: The only thing I ask is that Ms. O'Brien mail me a copy.

MS. O'BRIEN: Of the indictment?

MR. WALES: Not the indictment, the complaint.

MS. O'BRIEN: Surely.

THE COURT: Do you have a copy of it?

MS. O'BRIEN: Yes, I do.

MR. WALES: Do you have an extra copy now? If you could do it now --

MS. O'BRIEN: I don't have it with me now, if you come upstairs I can give it to you or mail it to you.

MR. WALES: Mail it to me and that will be fine.

THE COURT: All right.

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DATE			L	,	PROCEEDINGS		to the state of th	
-20-71	Before Mishler,	Ch J	- Su	persedit	ng Indictment	filed.		
	Before MISHLER, arraigned and the	cour	t er	ters pla	ea of pot au	present w/o	counsel.	-Deft a
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8-2-71	By MISHLER, CH.J- Writ issued. Returnable August 2, 1971 at 10AM. By MISHLER, CH J - Order appointing counsel filed (WILLIAMS)							
-2-71								
	Before Travia 1J - Case called - Defts WILLIAMS & LUCHETTI present with counsel - Order appointing counsel filed (Williams)							
	Order signed - Defts WILLIAMS & DEMPSY ARKAIGNAMX severed. Deft LUCCHETTI arraigned and enters a plea of not guilty - Case against							
	LUCCHETTI arraig	ned a	nd e	nters a	plea of not	guilty - Ca	se agains	t-

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DATE	PROCEEDINGS			
5/73	By MISHLER, CH. J Memorandum of Decision and Order filed, per	mitting		
	the deft to have a copy of probation report . Probation notifie	d		
	(interti)			
4-73	Letter filed dated June 11, 1973 from deft Lucchetti filed			
	received from Chambers (for motion to reargue courts decision			
	of May 30 directing US Atty to turn over 3500 material)			
14-73	By Mishler, Ch J - Memora ndum of Decision and Order filed			
	denying above motion of deft. Copy of Memo Order mailed to deft.			
15/73	2 Stenographer's transcripts of 1/7/73 filed.			
4/8/11	Sleaderwith Francis 2 10/27/71 filed Stand Williams)			
Hichel	Sterography Francouply 10/1/1 filed (Stond Williams)			
2-16-74	B. MISHVER CH I - Merorandum of Decision and Order filed			
2-10-74	vacating Indoment (Lucchetti) and deft is granted a new trial			
	to commence on January 20, 1975. Bail, originally fixed in the			
	- 5 675 000 is continued and it is so Ordered.			
/23/74	Petition, for Writ of Habeas Corpus Ad Prosequendum Illed (C.	Lucchet		
23/74	Ry MISHLER CH. J Writ issued, ret. 1/3/75 (C. Lucchetti)			
124/74	Description of T - Case called - Motion by deft for reduction	of bai		
24/14	argued-Bail modified at \$75,000.00 P.R. Bond with 4 houses as secu			
_ Y	and a cashbdeposit of \$7,500.00			
3/75	Refore MISHLER CH.J Case called - Deft LUCCHETTI present with	hout cou		
37.5	sel- Motion by deft for reduction of bail denied- Case reset for	or trial		
	on 3/21/75	¥		
-6-75	Certificate of Engagement and letter to counsel filed	·		
	indicating case is set down for trial on Monday, Mar. 31,1975			
	at 10:00 am. (Charles Lucchetti)			
-9-75	By SCHIFFMAN, Magistrate - Order for acceptance of cash			
	bail filed (CHARLES LUCCHETTI)			
105-7	5 Notice of Appearance filed (CHARLES LUCCHETTI)			
1-17-75	. c. 1 1 . 1 D - 2/ 107/ (Tucchatte	L)		
	(bail reduction hearing)			
1-30-	See entry in relating case 75 CR-25 as to deft LUCCHETTI,			
2-11-7	Valia of Parkings for Trial filed (LUCCHETTI)			
/11/75	Notice of motion for discovery, inspection, dismissal of indignal memorgandum of the discovery (Lucchern)	lctment		
3-12-7	Before Mishler, Ch J - case called - motion by the Govt to			
	forfeit bail set on deft Lucchetti - hearing ld - Hearing			
	concluded - Court declares forfeiture of bai - bail will be			
D. C. 10	10			

DATE	PROCEEDINGS
•	remitted if the deft surrenders to the U.S.Marshal on or before March 13,
21	2 Come Nichlan Ch I - case called - deft Lucchetti not present
	- 11 d - 11 though dale - dele 15 d - 0
0 /75	Case called- Deft LUCCHETTI and counsel present-
	AFOR AND AN CONTROLLY CO DONG - ILLEI SEE ME -
	and trial from this day until the day
	on 5/5/75- Probable cause hearing set down for 4/11/75 at 11:00 A.M.
0.755	on a new complaint- Letter from Elliot Wales, esq. to chambers dated 4/7/75 filed re:request
	. 1: and as coursel for delt Lucchetti (Letter in 15 on 15)
	- acitod- Deft IIICCHETTI and Counsel pressure
11/75	La Mar Woles to be relieved as counsel for
	Motion by Mr. wales to be lefteved as Trial adjd to 5/5/75- motion by deft pro se to have court disqualify it-
	self is denied Letter to Barry Kamins, esq. from Judge Mishler filed re:assignment as coun
14/75	Letter to Barry Kamins, esq. IIom ounge had
	(entered in 75 CR 25)
14/75	By MISHLER, CH. J Order filed appointing counsel (LUCGHETTI)
16/75	By MISHLER, CH.J Order appointing counsel filed By MISHLER, CH.J Order appointing counsel filed denying
-17-75	P- MICHIED CH. I - Memorandum of Decision and Order 12200
	motion of deft LUCCHETTI for disqualification of Chr. Sudge 110m
	defen forthcoming trials.
4-18-7	cited to make public any part of the record,
-	Wation of Motion to proceed in louis parpers
	compelling prosecution to furnish deft with statements writted etc.
•	1 to Chambons
5-18-	The might be called - dert Lucharite & country
	Lashley present - Elliot Wales relieved as counsel let
	Allan Lashley appointed by the court. Allan Lashley appointed by the court. Filed and letter dated 4-22-75
4-25	filed from H. Elliot Wales, Esq. (received from Chambers & retd
	after filing as per instructions)
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4/28/	75 Pro-Se notice of appeal from order of 4/17/75 denying disqualification of trial judge filed. (LUCCHETTI) (filed in 75CR25)
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-29-7	in the state mations and requests for documents a notice
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UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

-against-

CHARLES LUCCHETTI,

Defendant.

ALBERT SANTORO, LAURA
SANTORO and ROSE M.
SANTORO,
Sureties-Appellants

JOINT APPENDIX

DAVID G. TRAGER

United States Attorney, Attorney for USA

Due service of a copy of the within is hereby admitted.

New York,

une 24 , 197

H. ELLIST WALKS WALK WOLL

Sureties-Appellants

To

Attorney for

Form No.